

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

THE HONORABLE STEPHEN V. WILSON, DISTRICT JUDGE PRESIDING

USA,)
)
Plaintiff,)
)
vs.) No. CR 15-611-SVW
)
SEAN DAVID MORTON AND MELISSA)
MORTON,)
)
Defendants.)
_____)

REPORTER'S TRANSCRIPT OF JURY TRIAL PROCEEDINGS

LOS ANGELES, CALIFORNIA

WEDNESDAY, APRIL 5, 2017

VOLUME II OF IV

PAGES 262 - 519

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DEFENDANT SEAN DAVID MORTON, PRO PER

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1 **LOS ANGELES, CALIFORNIA; WEDNESDAY, APRIL 5, 2007; 9:15 A.M.**

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3 (Open Court - Jury Present)

4
5 THE COURT: We're here with the defendants and
6 counsel. Thank you very much, members of the jury, for making
7 this special effort to get here on time. It's appreciated.
8 Okay. I know it's not easy.

9 Let's resume the trial.

10 MR. HUGHES: The government would like to call Kristy
11 Morgan to the stand.

12 THE COURT: She testified before, correct?

13 MR. HUGHES: Yes, Your Honor. We have three
14 additional questions.

15 THE COURT: I see.

16 THE CLERK: The witness is reminded that she's still
17 under oath.

18 THE WITNESS: Yes.

19 **KRISTY MORGAN; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:**

20 **DIRECT EXAMINATION (RECALLED)**

21 BY MR. HUGHES:

22 Q. Good morning, Ms. Morgan.

23 A. Good morning.

24 Q. Does the IRS keep any record of all taxpayer
25 identification numbers for TINS?

1 A. Yes.

2 Q. Is this information stored on the IRS integrated data
3 retrieval system?

4 A. Yes, it is.

5 Q. And prior to coming here today, were you asked to perform
6 a search of the IDRS system for records relating to the
7 TIN 20-1165027?

8 A. Yes, I was.

9 Q. What were the results of that search?

10 A. There is no record of that TIN on the IRS database.

11 MR. HUGHES: Let's turn to what's previously been
12 moved into evidence as Exhibit 31, and go to page three.

13 Q. Were you asked to perform a search of the IDRS database
14 for any records relating to the TIN 924-18-9350?

15 A. Yes, I was.

16 Q. What were the results of that search?

17 A. There's also no record of that TIN in the IRS database.

18 Q. Let's go to Exhibit 33, page one.

19 Were you asked to perform a search of the IDRS
20 database for any records related to the TIN 924-18-7347?

21 A. Yes, I was.

22 Q. What were the results of that search?

23 A. No record of that TIN in the IRS database.

24 MR. HUGHES: Thank you.

25 No further questions.

1 THE COURT: Any further examination by the parties?

2 **CROSS-EXAMINATION**

3 BY DEFENDANT SEAN DAVID MORTON:

4 Q. Good morning, Ms. Morgan.

5 A. Good morning.

6 Q. Just quick questions for you.

7 Who exactly does the Internal Revenue Service have
8 the power to levy, in other words, levy or post your notices of
9 lien?

10 MR. HUGHES: Objection, Your Honor. Outside the
11 scope of direct and relevance.

12 THE COURT: Sustained, sir. So just ask the next
13 question.

14 DEFENDANT SEAN DAVID MORTON: Okay. Okay.

15 Q. I want to ask you also, is it your belief that the -- I'll
16 just ask you: Is the Internal Revenue Service an agency of the
17 United States government?

18 MR. HUGHES: Objection, Your Honor. Relevance and --

19 THE COURT: Sustained.

20 DEFENDANT SEAN DAVID MORTON: Okay. Then I would
21 like to -- may I submit as evidence -- stand by a second. Talk
22 to co-counsel.

23 (Discussion held off the record)

24 DEFENDANT SEAN DAVID MORTON: All right. I'd like to
25 enter into evidence at this time a lawsuit between Diversified

1 Metal Products v. T-Bow Company and Trust, Internal Revenue
2 Service --

3 THE COURT REPORTER: Could you repeat that again,
4 please.

5 DEFENDANT SEAN DAVID MORTON: Yes. I'm sorry.

6 I'd like to enter into evidence at this time a case
7 which is -- sorry -- Diversified --

8 MR. HUGHES: Objection, again, Your Honor.
9 Relevance, and we haven't been provided with an exhibit.

10 THE COURT: Sustained.

11 DEFENDANT SEAN DAVID MORTON: Okay. I'd like to
12 enter into evidence at this time Diversified Metal Products,
13 Inc. as the plaintiff --

14 MR. HUGHES: Same objection, Your Honor.

15 THE COURT: Sustained.

16 DEFENDANT SEAN DAVID MORTON: -- versus T-Bow Company
17 Trust, IRS, and Steve Morgan, again on which Ms. Richardson,
18 who is a United States attorney for the U.S. attorney's office,
19 states, "Emphatically denies" --

20 MR. HUGHES: Objection, Your Honor.

21 THE COURT: Sustained.

22 DEFENDANT SEAN DAVID MORTON: -- "that the
23 Internal" --

24 MR. HUGHES: Move to strike.

25 THE COURT: The comments are stricken.

1 When I strike a question or an answer, the jury is
2 instructed to disregard it.

3 DEFENDANT SEAN DAVID MORTON: Okay. So I'd still
4 like to enter these as evidence, then, please.

5 THE COURT: That motion is denied.

6 DEFENDANT SEAN DAVID MORTON: Okay. To enter the
7 evidence?

8 THE COURT: Denied.

9 DEFENDANT SEAN DAVID MORTON: Okay.

10 Thank you, Judge.

11 **CROSS-EXAMINATION**

12 BY MR. BRODY:

13 Q. Good morning, Ms. Morgan.

14 A. Good morning.

15 Q. How do Taxpayer Identification Numbers get into the
16 database you're talking about?

17 A. The business will make a form -- do a form, make a request
18 for the TIN to be assigned. Once it's assigned, then it's also
19 entered into the database, shows the name of the company, the
20 connected Employee Identification Number, and the date that it
21 was established.

22 Q. And is the Taxpayer Identification Number, is that
23 different from the number that an individual might use to file
24 their taxes?

25 A. It is.

1 Q. Okay. So, for example, if somebody used their Social
2 Security number, that could be the sort of identification
3 number that somebody would use to file their taxes; is that
4 correct?

5 A. Their individual taxes.

6 Q. Their individual taxes.

7 And could somebody use a Social Security number from
8 another country to file their taxes?

9 A. They would have to apply for a Tax Identification Number
10 from the IRS with a temporary until they actually received
11 their Social Security number.

12 Q. Now, if somebody put a Tax Identification Number on their
13 forms which had not been assigned, what would happen?

14 A. The information would be into the database; however, it
15 would drive a notice to go to that individual regarding that
16 number.

17 Q. So if the person had put the number on their form, it
18 would go into the database?

19 A. Well, it would go in for correspondence. It wouldn't be
20 part of the record. It would drive the numbers.

21 Q. Would you have found it if you searched for that number?

22 A. No, because you're asking me about Social Security
23 numbers.

24 Q. Okay. So you didn't you search -- you searched only for
25 Tax Identification Numbers?

1 A. I searched both sides of how a TIN, or Taxpayer
2 Identification Number, Social Security number is entered, and
3 there's no record of either on all three.

4 Q. Okay.

5 But there wouldn't be no record if somebody entered
6 one that that didn't, that's what you're saying?

7 A. I'm sorry. I didn't follow your question.

8 Q. If you entered a Tax Identification Number on your
9 personal filings, but there was no such Tax Identification
10 Number, would that number remain in your database?

11 A. No.

12 Q. And it wouldn't show up any search, right?

13 A. No.

14 MR. BRODY: Okay. Thank you.

15 THE COURT: Thank you, ma'am.

16 Call the next witness.

17 MR. HUGHES: Your Honor, the government calls Susan
18 Quackenbush.

19 THE CLERK: Please step forward and stand behind the
20 court reporter.

21 Please raise your right hand.

22 (Witness sworn.)

23 THE WITNESS: I do.

24 THE CLERK: Please be seated.

25 Please state your full name and spell it for the

1 record.

2 THE WITNESS: Susan Mae Quackenbush, S-u-s-a-n,
3 M-a-e, last name Q-u-a-c-k-e-n-b-u-s-h.

4 **SUSAN QUACKENBUSH; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:**

5 **DIRECT EXAMINATION**

6 BY MR. HUGHES:

7 Q. Good morning, Ms. Quackenbush.

8 Where are you employed?

9 A. Capital One Bank.

10 Q. And what is your position with Capital One Bank?

11 A. I'm a fraud investigator.

12 Q. And what are your responsibilities?

13 A. My responsibilities are to gather evidence for -- to --
14 for fraud investigations for -- for identity theft, or stolen
15 cards, or counterfeit cards.

16 Q. Pursuant to your position of employment with Capital One
17 Bank, have you become familiar with the recordkeeping system of
18 Capital One?

19 A. Yes, I have.

20 Q. And does Capital One keep a record of any correspondence
21 issued --

22 THE COURT: How long have you worked at Capital One?

23 THE WITNESS: I've worked at Capital One for
24 eight-and-a-half years.

25 THE COURT: Same position?

1 THE WITNESS: Same position.

2 BY MR. HUGHES:

3 Q. Does Capital One keep a record of any payments received by
4 the bank from a cardholder?

5 A. Yes.

6 Q. Does Capital One keep a record of any correspondence
7 issued to a cardholder?

8 A. Yes.

9 Q. Does Capital One keep a record of any payments made by
10 Capital One to a cardholder?

11 A. Yes.

12 Q. Does Capital One keep a record of any tax filings issued
13 to a cardholder?

14 A. Yes.

15 Q. Are these records maintained in the ordinary course of
16 Capital One's business?

17 A. Yes.

18 Q. Are records of these transactions entered into the records
19 of Capital One at or near the time of the underlying
20 transactions by a person with knowledge of those matters?

21 A. Yes.

22 Q. Are these records maintained in a centralized database?

23 A. Yes, they are.

24 Q. If a customer had received a tax information form such as
25 a Form 1099 from Capital One, would this have been reflected in

1 the database maintained by Capital One regarding its
2 cardholders?

3 A. Yes, it would have.

4 Q. Prior to coming here today, were you asked to review the
5 records of Capital One from this database for any information
6 related to the defendant Sean David Morton?

7 A. Yes, I was.

8 Q. Did you personally access this database to retrieve that
9 information?

10 A. Yes, I did.

11 MR. HUGHES: Let's turn to Exhibit 10, page four,
12 please.

13 Q. This number, Capital One, did you search for any records
14 relating to the account number 5178052548241005?

15 A. Yes, I did.

16 Q. Based on that review, were there any records of a 1099
17 being issued in relation to this account?

18 A. No, there were not.

19 Q. Were there any records of any payments made to the IRS in
20 withholdings based on this account?

21 A. No, there were not.

22 Q. Were there any records of a 1099 being issued to Sean
23 David Morton in relation to this account?

24 A. No, there were not.

25 Q. Did you search the Capital One database for any records

1 relating to the account number 4862362526928729?

2 A. Yes.

3 Q. Based on that search, were there any records of any 1099s
4 issued to Sean David Morton in relation to this account?

5 A. No, there were not.

6 Q. Were there any records of any tax withholdings made to the
7 IRS in relation to this account?

8 A. No, there were not.

9 Q. Did you search the Capital One database for any records
10 relating to Capital One bank account No. 5291157341285273?

11 A. Yes, I did.

12 Q. Based on that search, were there any records of any 1099s
13 being issued in relation to this account to Sean David Morton?

14 A. No, there were not.

15 Q. Were there any records of any tax withholdings being made
16 on behalf of this account to the IRS?

17 A. No, there were not.

18 Q. Does the IRS -- I mean, does Capital One have any record
19 of any withholding payments being made to the IRS on behalf of
20 the defendant Sean David Morton?

21 A. No, we do not.

22 Q. What is the nature of these three accounts that we just
23 mentioned?

24 A. They are credit card accounts.

25 MR. HUGHES: No further questions.

1 THE COURT: Any cross-examination?

2 MR. BRODY: No questions from Ms. Morton as to this
3 witness, Your Honor.

4 DEFENDANT SEAN DAVID MORTON: No questions, Judge.

5 THE COURT: Thank you, ma'am. Thank you.

6 Next witness.

7 MR. HUGHES: Your Honor, at this time the government
8 would like to call Vivian Hinds.

9 THE CLERK: You can step forward and stand behind the
10 court reporter.

11 Please raise your right hand.

12 (Witness sworn.)

13 THE WITNESS: Yes.

14 THE CLERK: Please be seated.

15 Please state your full name and spell it for the
16 record.

17 THE WITNESS: Vivian Hinds, V-i-v-i-a-n, H-i-n-d-s.

18 **VIVIAN HINDS; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:**

19 **DIRECT EXAMINATION**

20 BY MR. HUGHES:

21 Q. Good morning, Ms. Hinds.

22 A. Good morning.

23 Q. Where are you employed?

24 A. American Express.

25 Q. And what is your position with American Express?

1 A. Assistant custodian of records.

2 Q. And what are your responsibilities as an assistant
3 custodian of records?

4 A. I review and analyze documents for American Express, and I
5 provide testimony for American Express.

6 Q. And how long have you served in that position?

7 A. Twenty-one years.

8 Q. And pursuant to your position with American Express, have
9 you become familiar with the recordkeeping system of American
10 Express?

11 A. Yes.

12 Q. Does American Express keep a record of any correspondence
13 issued to its cardholders?

14 A. Yes.

15 Q. Does it keep a record of any payments received by its
16 cardholders?

17 A. Yes.

18 Q. Does American Express keep a record of any payments made
19 to a cardholder by American Express?

20 A. Yes.

21 Q. Does American Express keep a record of any tax filings
22 issued to its cardholders?

23 A. Yes.

24 Q. Are these records maintained in the ordinary course of
25 American Express business?

1 A. Yes.

2 Q. Are records of these transactions entered into the records
3 of American Express at or near the time of the underlying
4 transactions by a person with knowledge of those matters?

5 A. Yes.

6 Q. Are these maintained in a centralized database maintained
7 by American Express?

8 A. Yes.

9 Q. If a customer had received a tax information form such as
10 a Form 1099 from American Express, would this have been
11 reflected in the database maintained by American Express
12 regarding its cardholders?

13 A. Yes.

14 MR. HUGHES: Go to Exhibit 10, page four, please.

15 Q. Prior to coming here today, were you asked to review the
16 records of American Express in relation to the card number
17 37170487001005?

18 A. Can you repeat that number? It's not matching what I'm
19 seeing.

20 Q. 371704837001005.

21 A. Yes.

22 Q. And based on that search, does American Express have any
23 record of making any income tax withholdings to the IRS based
24 on this account?

25 A. No.

1 Q. Does it have any record of issuing any 1099s in relation
2 to this account?

3 A. No.

4 Q. What is the nature of this account?

5 A. This is a personal American Express Delta Sky Miles card.

6 Q. Prior to coming here today, were you asked to review
7 American Express's records regarding the account number ending
8 372539588201001?

9 A. Okay. I did review -- I'm confused on these account
10 numbers. This bottom account number is the one that I
11 reviewed, and that is the Delta Sky Miles credit card. The one
12 above it is an invalid account number; we were never able to
13 find any information on that.

14 Q. So --

15 A. I don't know what kind of account number that is. It does
16 not come up on our records.

17 Q. Then let me ask the question for this bottom account then.

18 A. Uh-huh.

19 Q. This is -- your testimony is that this is a Delta Sky
20 Miles account?

21 A. Yes.

22 Q. Does American Express have any record of making any income
23 tax withholdings to the IRS based on this account?

24 A. No.

25 Q. Does it have any record of issuing any 1099s in relation

1 to this account?

2 A. No.

3 Q. Does American Express have any record of issuing any 1099s
4 on behalf of the defendant Sean David Morton?

5 A. No.

6 MR. HUGHES: Thank you.

7 THE COURT: Any questions?

8 MR. BRODY: No questions for Ms. Morton as to this
9 witness. Thank you.

10 DEFENDANT SEAN DAVID MORTON: No questions, Judge.

11 THE COURT: Thank you, ma'am.

12 Call your next witness.

13 MS. MAKAREWICZ: United States will call Jeff
14 Fountain to the stand, Your Honor.

15 I apologize, Your Honor. We need to call Ted
16 Lepkojus.

17 THE CLERK: Please step forward. Please stand behind
18 the court reporter. Please raise your right hand.

19 (Witness sworn.)

20 THE WITNESS: I do.

21 THE CLERK: Please be seated.

22 Please state your full name and spell it for the
23 record.

24 THE WITNESS: My name is Ted Lepkojus. My last name
25 is spelled L-e-p-k-o-j-u-s.

TED LEPKOJUS; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:

DIRECT EXAMINATION

BY MR. HUGHES:

Q. Good morning, Mr. Lepkojus.

A. Good morning.

Q. Are you currently employed?

A. No, I'm not.

Q. Are you retired?

A. Yes, I am.

Q. Where were you employed prior to retiring?

A. The Internal Revenue Service.

Q. And what was your position with the Internal Revenue Service?

A. I was a revenue officer.

Q. And how long did you serve as a revenue officer?

A. Approximately 30 years.

Q. And what were your responsibilities as a revenue officer?

A. Be two basic responsibilities: Is to resolve unpaid tax cases and to resolve cases in which income tax returns or tax returns were outstanding.

Q. And when you were employed as a revenue officer with the IRS, did you use a pseudonym?

A. Yes, I did.

Q. What was that pseudonym?

A. Ted Hansen.

1 Q. And is it a common practice within the IRS for revenue
2 officers to use pseudonyms?

3 A. Yes, it is.

4 Q. Why?

5 A. Because of the type of cases that we work.

6 Q. Could you elaborate? Is it -- what are the issues that
7 would necessitate a pseudonym for a revenue officer?

8 THE COURT: Is this relevant?

9 MR. HUGHES: No. I'll move on, Your Honor.

10 Q. When you were employed to the IRS, were you ever assigned
11 to a matter involving Sean David Morton?

12 A. Yes, I was.

13 Q. What was the nature of that matter?

14 A. It was a balance-due case.

15 Q. And as part of that collection action, what steps did you
16 take first to recover the balance due?

17 MR. BRODY: Objection, Your Honor, relevance.

18 THE COURT: I'll sustain the objection on that
19 question. May be something else, I don't know.

20 BY MR. HUGHES:

21 Q. Did you issue a bank levy pursuant to your collection
22 action to Sean David Morton?

23 MR. BRODY: Objection, leading.

24 THE COURT: It is leading, but the first question was
25 did you take any steps to collect some tax debt. Sort of the

1 same question, isn't it?

2 MR. BRODY: Perhaps, Your Honor. I'm not sure. I'll
3 maintain the objection.

4 THE COURT: So I'll allow the question until I hear
5 some further testimony.

6 You can answer.

7 THE WITNESS: Yes, I did.

8 BY MR. HUGHES:

9 Q. And how much did the IRS receive pursuant to that levy?

10 MR. BRODY: Objection, relevance.

11 THE COURT: Approach the sidebar.

12 (Proceedings held at sidebar)

13 THE COURT: Why is this relevant?

14 MR. HUGHES: The government contends the disbursement
15 is evidence of the defendant's --

16 THE COURT: But his collection efforts didn't go to
17 that. You've already produced evidence, I believe, that when
18 he received the 400,000-some refund, you introduced evidence
19 that showed its disbursement. I don't understand why the
20 collection efforts are relevant.

21 MS. MAKAREWICZ: We specifically haven't introduced
22 evidence as to the disbursement that -- the witness from
23 Washington Mutual hasn't testified yet.

24 THE COURT: There are some records for
25 disbursement -- is there a witness who will testify --

1 MS. MAKAREWICZ: Yes, Your Honor.

2 THE COURT: You can do it that way. I mean, this
3 injects other matters into the case. This is not a tax evasion
4 case.

5 MR. HUGHES: May I introduce the notice of levy that
6 specifically told Mr. Morton why the IRS was levying his
7 account, because he received erroneous --

8 MR. BRODY: We received testimony about the letters
9 Sean David Morton received. Did --

10 MR. HUGHES: With regard to other periods --

11 THE COURT: But I mean, letters that he received
12 saying that -- he only received one erroneous refund, right?

13 MR. HUGHES: Correct, Your Honor.

14 THE COURT: That's in evidence.

15 MR. HUGHES: Yes. That is in evidence.

16 THE COURT: What are you going to ask him about the
17 letters?

18 MR. HUGHES: Whether he sent -- provided Mr. Morton
19 with a notice of the levy instructing him that the levy was
20 done because he received an erroneous refund.

21 THE COURT: I see. So, in other words, there may be
22 a question as to whether Mr. Morton received the letter.

23 MR. HUGHES: Correct, Your Honor.

24 MR. BRODY: I -- is there really any question as to
25 whether or not he received the letter?

1 MS. MAKAREWICZ: You disputed it yesterday.

2 THE COURT: Don't talk to each other. We don't know
3 whether he received a letter, but the issuance of yet another
4 letter is not going to establish that.

5 MR. BRODY: The defendants will stipulate that he
6 received the letter, the --

7 THE COURT: He can't stipulate on behalf of
8 Mr. Morton; he has a right to take any position he wants.

9 I mean, is your position going to be that you did
10 receive it or not? You don't have to do anything.

11 DEFENDANT SEAN DAVID MORTON: I can stipulate to the
12 receiving of the letter. That letter actually said they were
13 breaking their own laws doing what they were doing.

14 THE COURT: I'll sustain the objection.

15 MS. MAKAREWICZ: Your Honor --

16 THE COURT: I sustained the objection.

17 (Proceedings resumed in open court)

18 BY MR. HUGHES:

19 Q. Mr. Lepkojus, would you mind turning to the exhibit binder
20 in front of you and taking a look at Exhibits 38 through 51 and
21 identifying --

22 A. Are they two books?

23 Q. Yes. Multiple volumes.

24 A. Okay. I found them.

25 Q. Prior to coming here today, were you asked to review these

1 exhibits?

2 A. Yes, I was.

3 Q. What is the nature of these documents?

4 A. Correspondence that I received from Mr. and Mrs. Morton.

5 MR. HUGHES: Your Honor, at this time the government
6 would move to admit Exhibits 38 through 51.

7 THE COURT: Is there any objection?

8 MR. BRODY: Object as to relevance, Your Honor.

9 THE COURT: Let me take a look at the exhibits. I
10 have my own exhibits here.

11 THE WITNESS: Okay.

12 THE COURT: Thirty-eight to 51?

13 MR. HUGHES: That's correct, Your Honor. These are
14 overt acts alleged in the indictment regarding correspondence.

15 THE COURT: I can't possibly read every word of those
16 exhibits; they probably have hundreds of pages. They seem to
17 relate to collection efforts; is that correct?

18 MR. HUGHES: They do, Your Honor.

19 THE COURT: Didn't I make a ruling on that?

20 MR. HUGHES: Yes. Your Honor, these are admitted not
21 just for Mr. Morton's statements but -- may I approach the
22 sidebar?

23 THE COURT: Approach the sidebar once again.

24 (Proceedings held at sidebar)

25 MR. HUGHES: These letters include a letter from

1 Mrs. Morton in which she makes a firmly false statement that
2 the accounts in issue were not Mr. Morton's and they were hers.
3 It's crucial to her lack in good faith and the legitimacy of
4 the --

5 THE COURT: That may be one part of this
6 100-page-or-more document. Where is that?

7 MR. HUGHES: First page --

8 THE COURT: Where would I find that exhibit, what
9 page?

10 MS. MAKAREWICZ: Let me look.

11 MR. HUGHES: It's 39 --

12 MR. BRODY: Your Honor --

13 MR. HUGHES: Your Honor, may I?

14 THE COURT: I'm looking at Exhibit 40. I don't see
15 what you are arguing in that.

16 MR. HUGHES: "Personal and private accounts which are
17 not joint accounts."

18 THE COURT: I see. But the only account that's --
19 she says accounts.

20 MR. BRODY: It's not relevant. Exactly like the
21 bankruptcy evidence, Your Honor, a false statement about an
22 account has no bearing on this case. It's not at issue.
23 Trying to say Melissa Morton is a liar.

24 THE COURT: She is not charged with the withholdings
25 and so forth that Sean David Morton is being charged with, she

1 is only charged with that 13 or 15,000, isn't she?

2 DEFENDANT SEAN DAVID MORTON: That's correct, sir.

3 MR. HUGHES: With conspiracy to defraud the United
4 States, Your Honor.

5 THE COURT: I'm going to sustain the objection.

6 MR. BRODY: Thank you.

7 (Proceedings resumed in open court)

8 THE COURT: Okay. I sustained the objection.

9 MR. HUGHES: No further questions.

10 THE COURT: Thank you, sir.

11 THE WITNESS: Thank you.

12 THE COURT: You may step down, sir.

13 Call the next witness.

14 MS. MAKAREWICZ: Your Honor, the government would
15 like to call Jeff Fountain to the stand, please.

16 THE CLERK: Please stand behind the court reporter.
17 Please raise your right hand.

18 (Witness sworn.)

19 THE WITNESS: Yes, I do.

20 THE CLERK: Thank you. Please be seated.

21 THE WITNESS: Sure.

22 THE CLERK: Please state your full name and spell it
23 for the record.

24 THE WITNESS: Jeffrey Scott Fountain, J-e-f-f-r-e-y,
25 last name is Fountain, like a water fountain, F-o-u-n-t-a-i-n.

JEFFREY FOUNTAIN; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:

DIRECT EXAMINATION

BY MS. MAKAREWICZ:

Q. Good morning, Mr. Fountain.

A. Hi.

Q. Who do you work for?

A. I'm with the Internal Revenue Service.

Q. How long have you worked for the IRS?

A. Almost eight years.

Q. What is your position?

A. I'm a revenue officer.

Q. Have you always been a revenue officer?

A. Yes.

Q. Can you just describe generally what a revenue officer does.

A. We are assigned a certain amount of cases, depending on our grade level, and just try to resolve them as best we can.

Q. Do you collect?

A. Yes, we do collections.

Q. In the course of this case, do you know of an individual named Dannion Brinkley, or of that such person?

A. I had a case with that person, yes.

Q. And at the time you were assigned, did he owe money to the IRS?

MR. BRODY: Objection, relevance, Your Honor.

1 THE WITNESS: Yes.

2 THE COURT: I don't know where it's going. Seems
3 like a preliminary question. I'll pay close attention to it.
4 Overruled at this time.

5 DEFENDANT SEAN DAVID MORTON: Thank you, Judge.

6 BY MS. MAKAREWICZ:

7 Q. Mr. Fountain, there's some binders in front of you. Can
8 you turn to Exhibit 55. I believe it probably would be in
9 Volume II.

10 A. I found it.

11 Q. Can you take a moment and take a look through that record
12 and tell me when you're finished.

13 A. Okay.

14 Q. Thank you.

15 Do you recognize it, Mr. Fountain?

16 A. Yes.

17 Q. What is it?

18 A. It's some correspondence that I had received from a case
19 that I had that I was working on.

20 Q. In relation to Mr. Brinkley?

21 A. Correct.

22 Q. Did you receive it from Mr. Brinkley?

23 A. It came in the mail; so it had his name and address on the
24 return envelope.

25 Q. Did you maintain these papers as part of your job as a

1 revenue officer?

2 A. Yes.

3 Q. Did you put it in your collection file?

4 A. Yes.

5 Q. And when asked, did you turn this exhibit over to the
6 special agent assigned to this matter with respect to the
7 defendants?

8 A. First I put it through the chain. So I went to my
9 manager, who took a look at it, and he showed it to our
10 territory manager, who also reviewed it; and at that point,
11 they determined that it was what we, you know --

12 Q. I'd like for you to stop there.

13 MR. BRODY: I'd like object to that answer as
14 irrelevant, nonresponsive, and move to strike.

15 THE COURT: That part of his answer is stricken.

16 MS. MAKAREWICZ: Your Honor, at this time, I would
17 like to move Exhibit 55 into evidence.

18 MR. BRODY: Objection, foundation, relevance, Your
19 Honor.

20 THE COURT: Well, was this Damian -- Dannion -- is it
21 Dannion Brinkley?

22 DEFENDANT SEAN DAVID MORTON: Dannion Brinkley, sir.

23 THE COURT: Was Dannion Howard Brinkley some taxpayer
24 that you were dealing with in a collection effort,
25 Mr. Fountain?

1 THE WITNESS: Yes.

2 THE COURT: I see.

3 Objection is overruled.

4 MS. MAKAREWICZ: Thank you, Your Honor.

5 THE COURT: Exhibit is received.

6 (Government's Exhibit 55 received in evidence.)

7 MS. MAKAREWICZ: Can we publish page six, please.

8 Q. Mr. Fountain, do you see page six in front of you?

9 A. I do.

10 Q. Do you recognize this document?

11 A. Yes.

12 Q. Have you seen it before?

13 A. Yes.

14 Q. Was it what you had received in the mail from

15 Mr. Brinkley?

16 A. Yeah, this is part of the correspondence that I received.

17 Q. And I'd like to draw your attention to this line here. Is
18 that your name and your address in Las Vegas?

19 A. Yes, that's my work address and then my I.D. number.

20 Q. You mentioned earlier that you received this document.

21 What did you do with it after you received it?

22 A. After I reviewed it, it wasn't anything that I had ever
23 seen come across my desk before, which is why I moved it up to
24 my manager.

25 MR. BRODY: Objection, Your Honor, nonresponsive,

1 motion to strike.

2 THE COURT: Overruled.

3 BY MS. MAKAREWICZ:

4 Q. What did you understand this document to be, Mr. Fountain,
5 or to the best of your ability?

6 DEFENDANT SEAN DAVID MORTON: Objection, speculation,
7 Your Honor.

8 THE COURT: Objection is sustained.

9 BY MS. MAKAREWICZ:

10 Q. Do you know what this document was?

11 DEFENDANT SEAN DAVID MORTON: Objection --

12 MR. BRODY: Objection, foundation.

13 THE COURT: Sustained.

14 BY MS. MAKAREWICZ:

15 Q. Did the receipt of this document have any effect on
16 Mr. Brinkley's tax liability?

17 MR. BRODY: Objection, foundation and relevance.

18 THE COURT: Sustained.

19 MS. MAKAREWICZ: No further questions, Your Honor.

20 Thank you.

21 THE COURT: Thank you, sir. Thank you, Mr. Fountain.
22 Thank you for being here.

23 Call the next witness.

24 MS. MAKAREWICZ: Your Honor, for the ease of this
25 next witness, we have exhibits that are in the binders;

1 however, we have removed pages from those exhibits so that the
2 testimony can go quicker. These documents have already been
3 produced multiple times to the defendants.

4 At this time, I would like --

5 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor.
6 I object again that I did not receive discovery, I received
7 blank disks, and the two disks of discovery that they claimed
8 to have sent me, Your Honor, which was on March 24th, I
9 believe, was Your Honor said that they hadn't --

10 THE COURT: You've made that known to the court
11 before, and your objection is noted. You need not describe
12 what you're doing, just do it, and we'll make rulings as we
13 proceed.

14 MS. MAKAREWICZ: May I approach the clerk so that I
15 might hand him the documents to give to the witnesses?

16 THE COURT: Yes.

17 MS. MAKAREWICZ: Thank you.

18 MR. BRODY: I'm sorry, Your Honor. Can I inquire?
19 Is there a reduced version of this for us?

20 MS. MAKAREWICZ: Yes.

21 THE COURT: I take it that the pages that are now
22 being presented are parts of exhibits that are in the binders;
23 is that correct?

24 DEFENDANT SEAN DAVID MORTON: Again, objection, Your
25 Honor. These binders that were dumped, they were dumped at my

1 doorstep Saturday.

2 THE COURT: Mr. Morton, just one moment.

3 MS. MAKAREWICZ: It is, Your Honor.

4 May I approach so that the court may have a copy as
5 well?

6 THE COURT: Yes.

7 MR. BRODY: Your Honor, I'm going to object. I do
8 see that the very first page of the exhibit here is the same
9 bond that we were just discussing that was excluded with
10 respect to Dannion Brinkley.

11 MS. MAKAREWICZ: I haven't asked a question.

12 THE COURT: Counsel, I've told the lawyers that it's
13 really not appropriate for them to speak to each other. You're
14 to speak to the court, and the court will rule. Let's proceed
15 and do it in the usual format.

16 MS. MAKAREWICZ: Your Honor, Luke Yoo -- Your Honor,
17 he's in the restroom. I apologize to the members of the jury
18 and to the court.

19 THE COURT: All right. Maybe that's a cue we should
20 all take a break. We'll take the morning break a little early
21 and then come back.

22 (Recess)

23 MS. MAKAREWICZ: Government would call Luke Yoo to
24 the stand, please.

25 THE CLERK: Please come forward. Please stand behind

1 the court reporter.

2 (Witness sworn.)

3 THE WITNESS: I do.

4 THE CLERK: Please take the witness stand. Please be
5 seated.

6 Please state your full name and spell it for the
7 record.

8 THE WITNESS: My name is Luke Yoo, L-u-k-e, last name
9 is Y-o-o.

10 **LUKE YOO; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:**

11 **DIRECT EXAMINATION**

12 BY MS. MAKAREWICZ:

13 Q. Mr. Yoo, where are you employed?

14 A. I'm currently employed at IRS criminal investigations.

15 Q. What is your position with the IRS?

16 A. I'm a special agent.

17 Q. How long have you been employed as a special agent?

18 A. Approximately 22 years.

19 Q. Could you tell the jury your responsibilities as a special
20 agent?

21 A. My responsibility is to investigate allegations of
22 financial crime, including tax violations, and also to execute
23 a search warrants and arrest warrants.

24 Q. Over the course of your time at 22 years as a special
25 agent, have you participated in search warrants?

1 A. Numerous times.

2 Q. As part of your work, were you -- did you participate in a
3 criminal investigation as to the defendants in this matter?

4 A. I assisted in this investigation, yes.

5 Q. And did you assist in the execution of a search warrant on
6 the defendants' home?

7 A. Yes, I did.

8 Q. Do you recall the date as to when that search warrant was
9 executed?

10 A. I believe it was September 23rd, 2015.

11 Q. Can you tell me where it was executed?

12 A. I believe the address is 710 4th Street, Unit No. 4 --
13 Third Street, Unit No. 4, Hermosa Beach, California.

14 Q. Can you describe what preparation you went through prior
15 to the execution of the search warrant?

16 MR. BRODY: Objection, relevance.

17 THE COURT: Sustained.

18 BY MS. MAKAREWICZ:

19 Q. When a search warrant is executed, what are the first
20 steps that you take?

21 MR. BRODY: Objection, relevance.

22 THE COURT: Sustained.

23 BY MS. MAKAREWICZ:

24 Q. What was your role in the execution of the search warrant
25 upon defendant's home?

1 A. I was the outside cover, and I was the photographer and
2 also the searcher.

3 Q. In your capacity as the photography -- photographing agent
4 in this search warrant, can you describe the photograph
5 equipment you used on this search?

6 A. So I used the point-and-shoot camera made by Samsung.

7 Q. Have you used this equipment before the search?

8 A. Yes, I have.

9 Q. Was the equipment in good working condition?

10 A. Yes, it was.

11 Q. How many other times -- or have you been a photographing
12 agent before in a search warrant?

13 A. I don't exactly recall, but at least a dozen times.

14 Q. Thank you.

15 Mr. Yoo, there are some binders to your left. I'd
16 like for you to open binder two, take a look at Exhibit 56, and
17 let me know when you're finished.

18 A. Exhibit 56?

19 Q. Fifty-six.

20 THE COURT: I have 55. Is there a 56?

21 MS. MAKAREWICZ: No, 56. It would be in the binders.

22 THE COURT: Oh, I see. Okay.

23 MS. MAKAREWICZ: Fifty-six.

24 Q. Do you have it, Mr. Yoo?

25 A. Yes.

1 Q. Do you recognize this?

2 A. The photograph?

3 Q. What is it?

4 A. It's a photograph of a home office.

5 Q. Did you take this picture?

6 A. I did.

7 Q. Was there a memory card in the camera that you took the
8 picture with?

9 A. Yes.

10 Q. And after the search, what did you do with that memory
11 card?

12 A. Camera was -- the photograph inside the camera was
13 downloaded to my computer.

14 Q. From your memory of the search site, does this photo
15 accurately reflect the home office?

16 A. Yes.

17 MS. MAKAREWICZ: Your Honor, I'd like to move to
18 admit 56, please.

19 THE COURT: Received.

20 (Government's Exhibit 56 received in evidence.)

21 MS. MAKAREWICZ: May I publish it?

22 THE COURT: Yes.

23 DEFENDANT SEAN DAVID MORTON: Objection as to
24 relevance, Your Honor.

25 THE COURT: Objection is overruled.

1 BY MS. MAKAREWICZ:

2 Q. And, Mr. Yoo, you explained that this was a home office?

3 A. Yes.

4 Q. Can you please take a look at Exhibit 57, and let me know
5 when you are finished.

6 A. Yes.

7 Q. In your capacity as the photographing agent for the search
8 warrant, did you take this -- or what is it? Sorry. Pardon
9 me.

10 What is it?

11 A. I believe it's a photograph of an evidence that I took.

12 Q. In your capacity, did you take this picture?

13 A. I did.

14 Q. Was it taken at the time of the search?

15 A. Yes.

16 Q. Does this photo accurately reflect the location of the
17 documents that you found?

18 A. Yes.

19 MS. MAKAREWICZ: Move to admit the exhibit, Your
20 Honor.

21 THE COURT: Received.

22 (Government's Exhibit 57 received in evidence.)

23 MS. MAKAREWICZ: Please publish 57.

24 Q. Can you describe -- well, first, Mr. Yoo, who discovered
25 this file?

1 A. I did.

2 Q. Did this file contain items that were within the scope of
3 the search warrant?

4 A. Yes, it did.

5 MR. BRODY: Objection, relevance.

6 THE COURT: Sustained.

7 BY MS. MAKAREWICZ:

8 Q. What happened no this file after you discovered it?

9 A. I called the seizing agent, and he decided that we're
10 going to seize the evidence.

11 Q. Prior to coming here today, have you reviewed the contents
12 of the files found in this box?

13 A. I did.

14 Q. I'm now going to go through certain files contained in
15 this box.

16 Can you please turn to -- there's a stack of
17 documents. You can close that binder. There is a stack of
18 exhibits in front of you. Turn to Exhibit 61 -- or get the
19 packet for 61, please.

20 THE COURT: Just to confirm, Exhibit 61 in the
21 packets you placed before the witness is the same 61 in the
22 binders, correct?

23 MS. MAKAREWICZ: Yes.

24 THE COURT: Just part of it?

25 MS. MAKAREWICZ: Correct.

1 THE COURT: Okay.

2 MS. MAKAREWICZ: Yes.

3 Q. Mr. Yoo, could you take a look at Exhibit 61, and let me
4 know when you are finished.

5 A. Yes.

6 Q. What's contained in this exhibit?

7 A. Contained in this exhibit is payment bonds --

8 MR. BRODY: Objection, Your Honor, foundation, and
9 the documents speak for themselves.

10 THE COURT: Objection to the testimony "payment
11 bonds"?

12 MR. BRODY: Yes, Your Honor.

13 THE COURT: Sustained.

14 MR. BRODY: Thank you, Your Honor.

15 BY MS. MAKAREWICZ:

16 Q. Did you find this exhibit within the box at the search?

17 A. I did.

18 MS. MAKAREWICZ: I'd like to move this into evidence,
19 Your Honor.

20 THE COURT: Received.

21 MR. BRODY: Objecting as to relevance and foundation.

22 THE COURT: Sustained -- I mean, the objection is
23 overruled. The exhibit can be received.

24 (Government's Exhibit 61 received in evidence.)

25 ///

1 BY MS. MAKAREWICZ:

2 Q. Can you please turn to the next item in that packet,
3 Exhibit 58.

4 Do you have it in front of you?

5 A. I do.

6 Q. Do you recognize this document?

7 A. I do.

8 Q. Were these documents found inside this file folder at the
9 search or in this box of evidence at the search?

10 A. I believe so.

11 MS. MAKAREWICZ: I'd like to move it into evidence,
12 Your Honor.

13 MR. BRODY: Objection, relevance as to this document,
14 Your Honor.

15 THE COURT: Fifty-eight -- is this 58 that you're
16 talking about?

17 MS. MAKAREWICZ: Yes, sir.

18 THE COURT: Objection is overruled.

19 MS. MAKAREWICZ: May I move that into evidence, Your
20 Honor?

21 THE COURT: Received.

22 (Government's Exhibit 58 received in evidence.)

23 BY MS. MAKAREWICZ:

24 Q. Can you please turn to Exhibit 59.

25 Did you find this exhibit in the file folder at the

1 search?

2 THE COURT: Now, are you --

3 THE WITNESS: I did --

4 THE COURT: -- referring to the packet that you
5 handed up or the binders?

6 MS. MAKAREWICZ: The packet, Your Honor.

7 THE COURT: Okay.

8 MS. MAKAREWICZ: Thank you, Your Honor.

9 MR. BRODY: Your Honor, I do have an objection. If
10 the packets are being authenticated, but the entire exhibit is
11 being moved into evidence, I think that's improper.

12 MS. MAKAREWICZ: Your Honor --

13 THE COURT: One second, now.

14 You're saying that the pages that have been culled
15 from the exhibits in the binder --

16 MR. BRODY: Yes, Your Honor, is only a subset of the
17 pages that are in the binder.

18 THE COURT: That's all that is being offered.

19 MR. BRODY: Is that all that's being moved into
20 evidence?

21 THE COURT: Yes.

22 MR. BRODY: So the complete set of documents in the
23 binders are not being entered?

24 THE COURT: That's my understanding.

25 DEFENDANT SEAN DAVID MORTON: I object to that as

1 well, Your Honor. Just introducing a payment bond which has
2 nothing do with taxes, and an IRS agent, there is an entire
3 packet that goes along with the bond with a legal letter of
4 advice, the letters of memorandum, all of the things that go
5 with the submission. Just submitting one single piece -- one
6 page of the evidence completely nullifies the relevance of the
7 entire document that would be submitted.

8 THE COURT: Well, you can further examine the
9 exhibit, but in the court's examination, it doesn't just
10 contain the bond, it contains some of the things that you've
11 just described, but you can confirm.

12 DEFENDANT SEAN DAVID MORTON: "Some of"?

13 THE COURT: You can confirm that, and if you wish to
14 at some point present more, then you can make that effort.

15 DEFENDANT SEAN DAVID MORTON: Thank you, Judge.

16 MS. MAKAREWICZ: Thank you.

17 Q. Mr. Yoo, can you turn to -- we just finished 59?

18 A. Yes.

19 MS. MAKAREWICZ: May we move to 60, please.

20 Q. Were these documents found in this file folder at the
21 search site?

22 A. Yes, it was.

23 MS. MAKAREWICZ: Move to admit, Your Honor.

24 THE COURT: Received.

25 (Government's Exhibit 60 received in evidence.)

1 BY MS. MAKAREWICZ:

2 Q. Sixty-two, Mr. Yoo.

3 Were these documents found in the box at the search
4 site?

5 A. Yes, it was.

6 MS. MAKAREWICZ: Move to admit, please.

7 THE COURT: Received.

8 (Government's Exhibit 62 received in evidence.)

9 BY MS. MAKAREWICZ:

10 Q. Sixty-four --

11 THE COURT: Just one moment because they're not
12 tabbed. I have to get to them. Just one second.

13 Okay. Go ahead.

14 Did you move 64 in evidence?

15 MS. MAKAREWICZ: May I?

16 THE COURT: Received.

17 (Government's Exhibit 64 received in evidence.)

18 BY MS. MAKAREWICZ:

19 Q. Sixty-five, were these documents found in the box at the
20 search site?

21 A. Yes, it was.

22 MS. MAKAREWICZ: May I move, Your Honor?

23 THE COURT: Yes.

24 (Government's Exhibit 65 received in evidence.)

25 ///

1 BY MS. MAKAREWICZ:

2 Q. Sixty-six, were these documents found in the box at the
3 search site?

4 A. Yes, it was.

5 MS. MAKAREWICZ: May I move 66?

6 THE COURT: Yes, received.

7 (Government's Exhibit 66 received in evidence.)

8 BY MS. MAKAREWICZ:

9 Q. Sixty-seven, were these documents found in the box at the
10 search site?

11 A. Yes, it was.

12 MS. MAKAREWICZ: May I move?

13 THE COURT: Received.

14 (Government's Exhibit 67 received in evidence.)

15 BY MS. MAKAREWICZ:

16 Q. Sixty-nine, were these documents at the search site?

17 A. Yes.

18 MS. MAKAREWICZ: May I move?

19 THE COURT: You are moving them in evidence, correct?

20 MS. MAKAREWICZ: Yes, sir.

21 THE COURT: Yes, they're received.

22 (Government's Exhibit 69 received in evidence.)

23 BY MS. MAKAREWICZ:

24 Q. Sixty-eight, were these documents found at the search
25 site?

1 A. Yes, it was.

2 MS. MAKAREWICZ: May I move these into evidence, Your
3 Honor?

4 THE COURT: Yes, received.

5 (Government's Exhibit 68 received in evidence.)

6 BY MS. MAKAREWICZ:

7 Q. Seventy-two, were these documents found at the search
8 site?

9 A. Yes, it was.

10 MS. MAKAREWICZ: May I move into evidence?

11 THE COURT: Received.

12 (Government's Exhibit 72 received in evidence.)

13 BY MS. MAKAREWICZ:

14 Q. I'd like to go back to the binders, Mr. Yoo.

15 DEFENDANT SEAN DAVID MORTON: Again, objection as to
16 relevance of any of this having to do with the IRS.

17 THE COURT: Objection is overruled.

18 BY MS. MAKAREWICZ:

19 Q. I'd like you to look at Exhibit 149, please.

20 Just let me know when you have that.

21 THE COURT: One moment here.

22 MS. MAKAREWICZ: Thank you.

23 THE COURT: Okay.

24 BY MS. MAKAREWICZ:

25 Q. Mr. Yoo, do you have that?

1 A. I do.

2 Q. Do you recognize this document?

3 A. Photograph?

4 Q. Is it?

5 A. Yes.

6 Q. Did you take this photograph?

7 A. I did.

8 Q. What does it show?

9 A. Shows items that we found during the search.

10 Q. Was this photo taken by you during the execution of the
11 search warrant?

12 A. I did.

13 MS. MAKAREWICZ: I'd like to move to admit it, Your
14 Honor.

15 THE COURT: Received.

16 (Government's Exhibit 149 received in evidence.)

17 MS. MAKAREWICZ: May I publish 149?

18 THE COURT: Yes.

19 BY MS. MAKAREWICZ:

20 Q. Mr. Yoo, how did you come upon these documents?

21 A. Came to this document when I was called by the -- the
22 searching agent.

23 Q. Did you examine these documents to determine if there were
24 any documents within the scope of the search warrant?

25 A. Not during the search warrant. That was done by the

1 seizing agent.

2 Q. Okay.

3 Can you please take a look at Exhibit 75.

4 A. Okay.

5 Q. Can you take a look at this exhibit, Mr. Yoo.

6 A. I'm looking at it.

7 Q. Were these documents that were found at the desk during
8 the search warrant?

9 A. Yes.

10 MS. MAKAREWICZ: May I move 75 into evidence, Your
11 Honor?

12 THE COURT: Let me see what they are.

13 Received.

14 (Government's Exhibit 75 received in evidence.)

15 BY MS. MAKAREWICZ:

16 Q. Mr. Yoo, during the search, was Melissa Morton present?

17 A. Yes, she was.

18 Q. Did you happen to speak with her?

19 A. No.

20 Q. Did she speak with you?

21 A. She has stated a couple of things.

22 Q. Can you explain what she stated.

23 A. First time I overheard her speak was in the home office.

24 She came into the home office in her wheelchair, and she told

25 the group of agents that was inside her room -- inside the home

1 office basically, You can't search this area. I'm not involved
2 in this. I have a dog-walking business.

3 MR. BRODY: Objection, Your Honor. Relevance.
4 Hearsay.

5 THE COURT: Sustained -- well, not on hearsay
6 grounds, but the objection is sustained.

7 DEFENDANT SEAN DAVID MORTON: I --

8 MR. BRODY: He said sustained.

9 BY MS. MAKAREWICZ:

10 Q. Mr. Yoo, what time did you finish the search of the house?

11 A. Approximately about 9:15, I believe.

12 Q. What did you do afterwards?

13 A. We had a post briefing, and after that, we went to lunch,
14 or brunch.

15 Q. Where did you go to lunch?

16 A. Near the Hermosa Pier. I think the place called "Good
17 Stuff Restaurant."

18 Q. Did you see the defendant Sean David Morton after you
19 exited the restaurant?

20 MR. BRODY: Objection, relevance.

21 THE COURT: All right. It's a foundational question.
22 I don't know what's coming up. I mean, I'll be alert to the
23 following questions.

24 MR. BRODY: Thank you, Your Honor.

25 ///

1 BY MS. MAKAREWICZ:

2 Q. Did you see the defendant Sean David Morton after you
3 exited the restaurant?

4 A. I did.

5 Q. Where was he going?

6 A. He was exiting from the Bank of America.

7 Q. Exiting?

8 A. Yes.

9 Q. Bank of America where?

10 A. Near the PCH and the pier.

11 Q. How far away were you from him?

12 A. Thirty feet away.

13 MS. MAKAREWICZ: No further questions.

14 MR. BRODY: Your Honor, as to the answer concerning
15 what Ms. Morton said, I also want to move to strike and make
16 sure that's on the record.

17 THE COURT: Motion is granted, and it's stricken.

18 The jury is instructed to disregard it.

19 MR. BRODY: Thank you, Your Honor.

20 THE COURT: Do you wish to cross-examine, Mr. Brody,
21 Mr. Morton?

22 DEFENDANT SEAN DAVID MORTON: Yes.

23 THE COURT: Okay.

24 ///

25 ///

CROSS-EXAMINATION

BY DEFENDANT SEAN DAVID MORTON:

Q. What is your name again, sir?

A. Luke Yoo.

Q. What was your name again?

A. Luke Yoo.

Q. Is that an alias? I'm just wondering because the last two IRS witnesses used aliases here, Ted Hansen and Jeffrey Fountain, which is also Jeffrey Stone.

A. No.

Q. Is it IRS agents usually use aliases?

Okay. So was the -- we went through this extensively on the search warrant. Was the actual affidavit that's supposed to go with the search warrant limiting the search actually on the premises?

MS. MAKAREWICZ: Objection, Your Honor, relevance. Move to strike.

THE COURT: Sustained. There's nothing to strike. There was no answer. The objection was sustained.

BY DEFENDANT SEAN DAVID MORTON:

Q. Again, did you have access to the affidavit that's supposed to be there to limit the search on the Fourth Amendment?

A. Oh, yes.

Q. Really? Where?

1 A. Inside the case agent's truck.

2 Q. It wasn't on the premises, though, was it? And it wasn't
3 attached -- was it on the premises, or was it attached to the
4 warrant?

5 A. The affidavit itself?

6 Q. Yes.

7 A. No, not inside the premises.

8 Q. Is your opinion, sir, doesn't that void the warrant that's
9 supposed to stop Fourth Amendment searches and limit the
10 searches?

11 MS. MAKAREWICZ: Objection, Your Honor, calls for an
12 opinion.

13 THE COURT: Sustained.

14 BY DEFENDANT SEAN DAVID MORTON:

15 Q. So, once again, I ask the question. Go ahead. It's the
16 question I asked.

17 A. The affidavit, I read that affidavit in the morning.

18 Q. But it wasn't on the premises --

19 A. No.

20 Q. -- as the Fourth Amendment states. Okay.

21 Was there anywhere on the warrant that said that you
22 could kick in the door?

23 A. No.

24 Q. Was it a no-knock warrant that said that you could kick
25 the door in to the premises?

1 A. I don't understand the question.

2 Q. Was it a no-knock warrant that said you could kick the
3 door in to the premises? Did it give you permission to kick in
4 the door?

5 A. We did not kick in the door, and there was a knock and
6 announce.

7 Q. Really?

8 So did the -- can did myself or my wife let you in?

9 A. The door was open.

10 Q. The door just opened. Yeah, that's your story. Okay.
11 All right.

12 When you came into the premises -- so my other
13 question is: When you came into the premises, I'm not sure,
14 were you actually present when they -- well, first off, all of
15 you were armed, yes?

16 A. Yes.

17 Q. Was there any reason for you to be armed -- well, all
18 right.

19 How many of you were -- how many agents were actually
20 in on this raid in a very small, three-bedroom apartment?

21 A. Ten.

22 Q. Ten. Okay.

23 Your other agents had previously testified there were
24 as many as 20, but you say ten.

25 A. I'm not the team leader.

1 Q. Okay. How many people were -- how many on your team were
2 actually dressed like jackbooted Nazis, with the helmets and
3 the machine guns and the whole thing?

4 MS. MAKAREWICZ: Objection, Your Honor.

5 THE COURT: Sustained.

6 BY DEFENDANT SEAN DAVID MORTON:

7 Q. Answer the question.

8 A. What was the answer -- what was the question?

9 Q. Question was how many of your team were dressed in flack
10 jackets and helmets and actually had M16 machine guns?

11 A. We didn't have M16 machine guns.

12 Q. You're under oath, sir.

13 What kind of assault weapons were they?

14 A. We don't carry M16 machine guns.

15 Q. Okay. All right.

16 When they found -- were you there when they dragged
17 my wife out of bed?

18 A. No, I wasn't.

19 Q. Did you actually witness them assault my wife and actually
20 take her wheelchair and throw it across the room, or did you
21 hear her scream that she just had knee surgery, and were you
22 actually witnessed -- or did you photograph the actual physical
23 assault of my wife?

24 A. Like I said previously, I was outside cover. I didn't
25 make entry to the house.

1 Q. Okay. Who was the team leader?

2 A. I don't recall.

3 Q. You don't know who the team leader is? So you didn't see
4 an affidavit and you don't know who the team leaders, and you
5 don't know how many people were there?

6 A. No.

7 Q. Oh. Okay. All right.

8 Now, was there -- were there any original documents
9 that you found? I mean, were there original documents of the
10 bonds actually in the house?

11 A. I'm not sure.

12 Q. Okay. Were they all -- I mean you just showed a UCC
13 filing with the State of California. Are you trying to
14 intimate that that is illegal somehow? Well, you introduced
15 all this, there must be -- okay.

16 Let me ask you this: Was this primarily about
17 finding bonds inside the house?

18 A. I'm not the case agent; so I'm not sure exactly what this
19 investigation detailed.

20 Q. Oh, I'm not either.

21 So the -- what does the Secret Service do? If the --
22 all right. I'll withdraw the question, Your Honor.

23 Is it usual that the IRS would bust into people's
24 houses to look for bonds which have really nothing to do with
25 taxes?

1 A. First of all, we don't bust into the house so...

2 Q. Who did?

3 A. We knock and announce, and we opened the door.

4 Q. Well, obviously -- did anybody let you in?

5 A. No. We made it -- no one answered; so we open the door.

6 Q. So you burst into the house. You came in on your own
7 accord. You weren't let into the house. You knocked on the
8 door and claimed the door was open.

9 A. We had the right to be there; we had a signed search
10 warrant signed by --

11 Q. Was there probable cause anywhere actually on the search
12 warrant? Did it actually say what was to be searched and what
13 was --

14 A. Yes.

15 Q. Did you see on the warrant the probable cause had just
16 been crossed out?

17 A. No. It was there. I read it.

18 Q. But you didn't read the affidavit that went with it.
19 Okay. All right.

20 Again, did you photograph any original documents?

21 A. I'm not sure if they were originals or copies.

22 Q. Okay. So you don't know? You don't know if they were
23 originals or not?

24 A. No.

25 Q. Because that's a big -- all right.

1 Anything else?

2 MR. BRODY: Are you done?

3 DEFENDANT SEAN DAVID MORTON: No further questions,
4 Judge.

5 **CROSS-EXAMINATION**

6 BY MR. BRODY:

7 Q. Good afternoon, Agent.

8 A. Good afternoon.

9 Q. So the search warrant was executed on September 23rd,
10 2015; is that correct?

11 A. Yes.

12 Q. And you had a warrant authorizing that search, yes?

13 A. Yes.

14 Q. Now, the warrant -- I'm sorry. Let me back up for a
15 moment.

16 I think you said that, to your recollection, about
17 ten agents were present conducting the search?

18 A. Yeah, I do so many. I'm involved in so many different
19 search warrants, I'm not sure exactly how many agents we have.

20 Q. You don't remember? Do you think it was more or less than
21 ten, to the best of your recollection?

22 A. Probably more.

23 Q. Okay.

24 And now the warrant that you consult -- you consulted
25 a warrant before you began the search, right?

1 A. I'm sorry?

2 Q. You had a warrant with you when you did the search, yes?
3 You had a warrant that told you what you could search; is that
4 right?

5 A. Yes.

6 Q. Okay.

7 And you searched the house according to what the
8 warrant permitted you to search; is that right?

9 A. Yes.

10 Q. And the warrant permitted you to search for, for example,
11 any and all records, documents, programs, applications or
12 materials evidencing client financial relationships with Sean
13 Morton and Melissa Morton; is that correct?

14 A. Yes.

15 Q. And you did search for those things, right?

16 A. Yes.

17 Q. You and the other agents, correct?

18 A. Correct.

19 Q. The search warrant also authorized you to search for
20 correspondence and notes, both electronic, email and physical
21 form, by and between Sean Morton, Melissa Morton and any third
22 party and any business related to Sean Morton or Melissa
23 Morton; is that correct?

24 A. Yes.

25 Q. It also authorized you to search for any digital devices

1 used to facilitate the charged crimes, correct?

2 A. Yes.

3 Q. And you did search for those things, correct?

4 A. I personally?

5 Q. You and the team.

6 A. Yeah.

7 Q. And you did seize digital devices from the home; isn't
8 that right?

9 A. I did not personally seize it, no.

10 Q. Are you aware of any digital devices that were seized from
11 the home?

12 A. I believe there were digital evidence that we seized.

13 Q. And did one of those items include an Apple Mac Pro?

14 A. Again, I'm not sure.

15 Q. Would it refresh your recollection to look at the
16 inventory document from the search?

17 A. I'm not the seizing agent, so I'm not sure exactly what
18 was seized.

19 Q. It wouldn't refresh your recollection to look at the
20 inventory then; is that what you're saying?

21 A. I never seen it.

22 Q. Okay.

23 To your knowledge, the government seized a lot of
24 documents from the home; is that correct?

25 A. I'm not sure how much was seized.

1 Q. But at least the box of documents that you discussed
2 earlier, that was seized, correct?

3 A. That was the only document that I seized.

4 Q. Okay. Were you involved in reviewing the files on the
5 machines that were seized?

6 A. No.

7 Q. Were you involved in reviewing the physical documents that
8 were seized from the home?

9 A. Only certain items.

10 Q. And did those items include letters, for example?

11 Let me withdraw that question. Let me ask it
12 differently.

13 Did you review anything other than what was
14 previously discussed with you by the prosecutor on her direct
15 examination?

16 A. No.

17 Q. Now, you have no personal knowledge of who might have
18 prepared any of the documents that were seized, correct?

19 A. I do not.

20 Q. Obviously, you were not present when those documents were
21 created, correct?

22 A. Correct.

23 MR. BRODY: Thank you, Agent.

24 No further questions.

25 DEFENDANT SEAN DAVID MORTON: Your Honor, may I ask

1 two follow-up questions?

2 THE COURT: Yes.

3 **CROSS-EXAMINATION (Continued)**

4 BY DEFENDANT SEAN DAVID MORTON:

5 Q. So all of you are agents for the Internal Revenue Service,
6 yes? Agents.

7 A. Excuse me?

8 Q. All of you are agents for the Internal Revenue Service,
9 correct?

10 A. Well, special agents.

11 Q. Special agents?

12 A. Yes.

13 Q. Okay.

14 Was there an actual officer on present? Was there a
15 marshal? Was there a sheriff? Was there any actual officer
16 that works for the County, State or federal government?

17 MS. MAKAREWICZ: Objection, relevance, Your Honor.

18 THE COURT: Sustained.

19 DEFENDANT SEAN DAVID MORTON: The relevance is -- the
20 relevance is, again, the warrant specifically said an officer
21 had to be on premise. Usually when the IRS operates within a
22 jurisdiction, don't they --

23 MS. MAKAREWICZ: Your Honor --

24 DEFENDANT SEAN DAVID MORTON: I'm asking the
25 question. Can I finish the question?

1 MS. MAKAREWICZ: -- the defendant is testifying.

2 THE COURT: Objection is sustained.

3 BY DEFENDANT SEAN DAVID MORTON:

4 Q. Again, under the rules, the Internal Revenue Service,
5 which is a federal agency, must ask the local sheriff whether
6 or not they are going to be enforcing a warrant or a search
7 warrant within their territory or jurisdiction. Did any of
8 that happen?

9 MS. MAKAREWICZ: Objection, relevance.

10 THE COURT: Sustained.

11 THE WITNESS: There was a sheriff there.

12 THE COURT: Sustained. When I sustain an objection,
13 there's no answer.

14 BY DEFENDANT SEAN DAVID MORTON:

15 Q. So, again, was there a sheriff, a marshal on premises?

16 MS. MAKAREWICZ: Objection, Your Honor.

17 BY DEFENDANT SEAN DAVID MORTON:

18 Q. Was there an officer?

19 THE COURT: Sustained. At this point, I'm going to
20 have to terminate your examination. Thank you, sir.

21 Call the next witness.

22 DEFENDANT SEAN DAVID MORTON: Oh, I see. Okay. I'm
23 sorry. Thank you, Judge.

24 MR. HUGHES: Government would call John Kirsling,
25 Your Honor.

1 THE CLERK: Please step forward. Stand behind the
2 court reporter. Please raise your right hand.

3 (Witness sworn.)

4 THE CLERK: Please be seated.

5 Please state your full name and it spell it for the
6 record.

7 THE WITNESS: My name is John Frank Kirsling. Last
8 name is Kirsling, K-i-r-s -- as in Sam -- l-i-n-g.

9 **JOHN KIRSLING; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:**

10 **DIRECT EXAMINATION**

11 BY MR. HUGHES:

12 Q. Good morning, Mr. Kirsling.

13 A. Good morning.

14 Q. Where are you employed?

15 A. I'm employed by the Internal Revenue Service criminal
16 investigation.

17 Q. And what is your position?

18 A. I'm a special agent computer investigator specialist.

19 Q. And what are your job responsibilities in that position?

20 A. Forensically examine digital evidence.

21 Q. And as part of your responsibilities, do you participate
22 in the examination of evidence found during the execution of
23 search warrants?

24 A. Yes.

25 Q. And what does this analysis typically entail?

1 A. Typically entails whatever the digital evidence is. We
2 make a forensic copy, actually two forensic copies, because one
3 we use as a working copy; one we keep as an original. And we
4 take that copy, and we run it through forensic software, and it
5 extracts all the files by category, you know, documents,
6 graphics, .pdf's, spreadsheets. It will even look at the image
7 and extract out deleted files. It places it in categories, and
8 I review it for scope of the warrant.

9 Q. Pursuant to your position as a -- with the IRS, did you
10 participate in the execution of a search warrant on the
11 defendants' residence on September 23rd, 2015?

12 A. I did.

13 Q. What was your role in the execution of that search
14 warrant?

15 A. It was to lead computer investigative specialists to go in
16 and examine whatever was digital evidence onsite within scope
17 of the warrant.

18 Q. During that search, did you seize any digital devices?

19 A. Yes, I did.

20 Q. I'd like to turn your attention to the binders in front of
21 you. If you would please take a look at Exhibit 77, and let me
22 know when you've had a chance to review it, and that is the
23 binders and not the file.

24 A. Seventy-seven?

25 Q. Yes.

1 Do you recognize this document?

2 A. I do.

3 Q. And what is it?

4 A. It's a photograph of the iMac computer that was found in
5 one of the rooms at the search warrant.

6 Q. Does the photo show the iMac computer at the site of the
7 search?

8 A. Yes.

9 Q. Does it accurately portray the digital device found at the
10 site of the search?

11 A. Yes.

12 MR. HUGHES: Move to admit, Your Honor.

13 THE COURT: Received.

14 (Government's Exhibit 77 received in evidence.)

15 MR. HUGHES: Let's go ahead and publish that.

16 Q. So what type of digital device is shown in this
17 photograph?

18 A. It's a computer, Apple computer.

19 Q. Did you perform any forensic testing on this device?

20 A. Yes.

21 Q. What was the nature of that testing?

22 A. As I stated earlier, we take a forensic copy, two forensic
23 copies. One we keep the original, and the other we use as
24 working copy. I took the copy, ran it through one of our
25 forensic software called Forensic Toolkit, FTK for short, and

1 it extracted, again, documents, graphics, spreadsheets, deleted
2 files, emails, from the drive, working copy drive.

3 Q. As part of your testing, did you create a copy of the hard
4 drive of this device?

5 A. I did.

6 Q. And as part of your analysis of the device, did you also
7 create a working copy?

8 A. Yes.

9 Q. Did you take any steps or use any programs to verify that
10 the information contained on those copies is the same as what
11 is contained on this digital device?

12 A. Yes.

13 Q. What were those steps?

14 A. In the I guess you could call duplication process, once
15 the duplication process is completed, there's a -- an
16 algorithm, a mathematical formula that gets applied to the
17 original, and the product of that algorithm is a very long,
18 like 40-digit alphanumerical number. And once the copy is
19 made, the same algorithm is applied to it, and it, again, gets
20 a product of the 40-digit number and it compares the number.
21 So the original and the copy compares, and if they match, then
22 it's called verified.

23 Q. Have you maintained custody of the original image and
24 working copy of the hard drive of this device?

25 A. Yes.

1 Q. Mr. Kirsling, prior to coming here today, were you asked
2 to review any .pdf files contained on that working copy?

3 A. I was.

4 Q. Briefly, what is a .pdf file?

5 A. It's a portable document format. It's an Adobe software,
6 where it's kind of like a scanned version of a file. I think
7 they created it originally so that computers could share
8 electronic files. So you could scan a picture in a Word
9 document so it would all be contained in one file. So it's a
10 portable document format.

11 Q. Could you please turn your attention to the packet of
12 documents in front of you, not the binder.

13 A. This one? Or this one?

14 Q. Let's take a look at Exhibit 113, please.

15 A. Yes.

16 Q. And what is this document?

17 A. This appears to be a paper printout of one of the .pdf
18 formats that I found on one of the computers. It contains a
19 proof of mailing, bond payments, payment bond --

20 MR. BRODY: Objection, Your Honor, as to describing
21 the contents of the exhibit.

22 THE COURT: Sustained.

23 BY MR. HUGHES:

24 Q. Mr. Kirsling, have you verified that the contents of that
25 document match the contents of a .pdf file found on this iMac

1 computer?

2 A. I have.

3 MR. HUGHES: Move to admit, Your Honor.

4 THE COURT: Received.

5 (Government's Exhibit 113 received in evidence.)

6 BY MR. HUGHES:

7 Q. Please turn to Exhibit 116.

8 A. Okay.

9 Q. Prior to coming here today, have you verified that the
10 contents of this file exhibit match the contents of a portion
11 of the .pdf file found on the iMac computer?

12 A. I so reviewed it. Yes, I reviewed it.

13 MR. HUGHES: Move to admit, Your Honor.

14 THE COURT: Received.

15 (Government's Exhibit 116 received in evidence.)

16 BY MR. HUGHES:

17 Q. Can you turn your attention to Exhibit 119.

18 A. Yes.

19 Q. Prior to coming here today, did you verify that the
20 contents of this file match a portion of selected documents on
21 a .pdf file found during the search of this digital device, the
22 iMac?

23 A. Yes, I have.

24 MR. HUGHES: Move to admit, Your Honor.

25 THE COURT: Received.

1 (Government's Exhibit 119 received in evidence.)

2 BY MR. HUGHES:

3 Q. Turn to Exhibit 123, please.

4 A. Yes.

5 Q. Prior to coming here today, did you verify that the
6 contents of this exhibit match the contents of a portion of a
7 .pdf file found during the search of the iMac computer?

8 A. Yes, I have.

9 MR. HUGHES: Move to admit, Your Honor.

10 THE COURT: Received.

11 (Government's Exhibit 123 received in evidence.)

12 BY MR. HUGHES:

13 Q. Exhibit 128, please.

14 A. Yes.

15 Q. Prior to coming here today, did you verify that the
16 contents of this exhibit match the contents of a portion of the
17 file found during the search of this -- that is the iMac?

18 A. Yes, I have.

19 MR. HUGHES: Move to admit, Your Honor.

20 THE COURT: Received.

21 (Government's Exhibit 128 received in evidence.)

22 BY MR. HUGHES:

23 Q. Let's turn to Exhibit 131.

24 A. Yes.

25 Q. Prior to coming here today, did you verify that the

1 contents of this exhibit match the contents of a portion of the
2 .pdf file found during the search of the iMac computer?

3 A. Yes, I have.

4 MR. HUGHES: Move to admit, Your Honor.

5 THE COURT: Received.

6 (Government's Exhibit 131 received in evidence.)

7 BY MR. HUGHES:

8 Q. Please turn to Exhibit 134.

9 A. Yes.

10 Q. Prior to coming here today, did you verify that the
11 contents of this exhibit match the contents of a portion of the
12 .pdf file found during the search of the iMac computer?

13 A. Yes, I did.

14 MR. HUGHES: Move to admit, Your Honor.

15 THE COURT: Received.

16 (Government's Exhibit 134 received in evidence.)

17 BY MR. HUGHES:

18 Q. Mr. Kirsling, prior to coming here today, were you asked
19 to review any Word files?

20 A. Yes, I was.

21 Q. Would those be Microsoft Word files?

22 A. Correct.

23 Q. Would you please take a look at the exhibit binders in
24 front of you, and if you could please just review exhibits -- I
25 mean prior to coming here today, were you asked to review

1 Exhibits 79 through 106, 108 through 109, 111 through 112, 114
2 through 115, 117, 118, 120, 121, 124, 125, 126, 127, 129, 130,
3 132, 133, 135, and 136?

4 A. Yes, I was.

5 Q. And what are these documents?

6 A. More documents extracted via FTK from the computer.

7 Q. And do these documents appear to be documents purporting
8 to be bonds?

9 MR. BRODY: Objection.

10 DEFENDANT SEAN DAVID MORTON: Objection, yeah.

11 THE COURT: Sustained.

12 MR. HUGHES: Then just move to admit Exhibits 79
13 through 106, 108 through 109, 111 through 112, 114 through 115,
14 117, 118, 120, 121, 124, 125, 126, 127, 129, 130, 132, 133,
15 135, and 136?

16 DEFENDANT SEAN DAVID MORTON: Objection to all of
17 these under relevance and hearsay.

18 THE COURT: I haven't been able to examine all of
19 those with the same care that I examined the extracted
20 exhibits. We'll have to take that up outside the presence of
21 the jury so I have a chance. Too many things for me to look
22 at.

23 MR. HUGHES: Okay. Your Honor. Thank you, Your
24 Honor.

25 DEFENDANT SEAN DAVID MORTON: Thank you, Judge.

1 BY MR. HUGHES:

2 Q. Now, when you apply Forensic Toolkit, the software program
3 you mentioned, does that import all of the files from the
4 digital device that you searched?

5 A. Yes.

6 Q. And does it retain all of the original metadata of those
7 files?

8 A. It does.

9 Q. In general, what is metadata?

10 A. Basically the properties of a file. You know, the date
11 created, date modified, what type of file it is, how big it is.
12 All of the properties of a file.

13 Q. Is a report generated by FTK describing that metadata?

14 A. Yes. It also includes the path of where that particular
15 file might be found -- well, is found from a computer.

16 Q. Please turn to Exhibit 78 in the binder.

17 A. Yes.

18 Q. What is this document?

19 A. This document is actually a spreadsheet list of the files
20 that I found from iMac computer and the Mac Pro. It also
21 contains the path of each file, the date created, the date
22 accessed, the date modified, the name of the file, and an index
23 item which is an item assigned by FTK in case there is a
24 duplicative file name.

25 Might have the same file name as John that is found

1 in multiple locations. So instead of saying, John, John, John,
2 John, John, it gives it a number. The first one says John,
3 then the next one says a number assigned to it. So it will say
4 John and a number assigned to it.

5 Q. Now, were the metadata summaries included in this chart
6 generated directly by the FTK program?

7 A. Yes.

8 Q. And was that pursuant to the imaging of the hard drives of
9 the digital devices you just mentioned?

10 A. Yes.

11 MR. HUGHES: Move to admit Exhibit 78, Your Honor.

12 THE COURT: Received.

13 (Government's Exhibit 78 received in evidence.)

14 MR. HUGHES: And let's publish.

15 Q. Mr. Kirsling, for all the .pdf files that we just
16 mentioned, as well as the Word files, is the path for them
17 reflected in this chart?

18 A. Yes.

19 Q. And in the user -- in the column marked "Path," what
20 information is identified?

21 A. Can I mark on here, too?

22 Q. Yes, you can.

23 A. It can identify the room in which it was found. This is
24 the name of the computer and the hard drive number. So this
25 particular computer had one hard drive, and it has also the

1 subpath. So it's got the subpath of users, the name of the
2 user, and then, also, all the way down to the file name, as
3 well as when it's created, when it's accessed, when it's
4 modified.

5 Q. Did all of these documents share the same user?

6 A. Yes -- well --

7 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor.

8 MR. BRODY: Objection, Your Honor.

9 DEFENDANT SEAN DAVID MORTON: Go ahead.

10 THE COURT: What is the objection?

11 MR. BRODY: Foundation, Your Honor.

12 THE COURT: Lay a better foundation, if you can.

13 BY MR. HUGHES:

14 Q. Based on your review of the information contained in the
15 FTK program, does that -- did all of the documents listed in
16 this chart have the same -- come from the same user found using
17 the forensic software?

18 MR. BRODY: Objection, foundation.

19 DEFENDANT SEAN DAVID MORTON: And, objection, he has
20 no firsthand knowledge of that.

21 THE COURT: Well, I don't understand enough about the
22 technology to make a reasoned decision until I hear some
23 further testimony. I don't know how these things work.

24 How would you determine whether or not the same user
25 accessed this computer?

1 THE WITNESS: Can I respond to that?

2 THE COURT: Yes. I mean, you're responding based
3 upon your expertise and experience, correct?

4 THE WITNESS: Yes, sir, Your Honor.

5 THE COURT: Yes.

6 THE WITNESS: I cannot tell you who the physical user
7 was. All I can tell you is that the user listed on the
8 computer itself is just listed as -- a specific person --
9 specific name.

10 THE COURT: And how -- what is that name?

11 THE WITNESS: Melissa. All of them except the last
12 two, which is a separate computer.

13 THE COURT: All right. That testimony can stand.

14 DEFENDANT SEAN DAVID MORTON: Well, my objection,
15 Your Honor, is that is it not that information -- my objection
16 is that that information is only who owns the computer, who
17 bought the computer, not who is using it at the time. The
18 secretary --

19 THE COURT: You can make that argument, but I'm going
20 to allow it in evidence. You can still make that argument.

21 DEFENDANT SEAN DAVID MORTON: Okay. Thank you,
22 Judge.

23 MR. HUGHES: Take this down.

24 THE WITNESS: Except for the last two, I think, is a
25 separate user on the last page.

1 BY MR. HUGHES:

2 Q. Do those relate to a separate digital device?

3 A. Correct.

4 Q. And what digital device was that?

5 A. That was the Mac Pro found in room G.

6 Q. What was room G?

7 A. Purportedly it was Sean David Morton's room.

8 MR. BRODY: Objection, foundation.

9 DEFENDANT SEAN DAVID MORTON: Objection -- yeah.

10 THE COURT: Sustained.

11 MR. BRODY: Your Honor, in light of that, I would
12 move to strike this exhibit. All of the rooms here appear to
13 be -- all of the listings of rooms appear to be communicated to
14 this witness by hearsay at some point.

15 THE COURT: Were you at the search?

16 THE WITNESS: I was.

17 THE COURT: I see.

18 THE WITNESS: Mr. Morton was found in that room.

19 THE COURT: Are the rooms that are shown in this
20 exhibit rooms that you personally observed?

21 THE WITNESS: Personally was in?

22 THE COURT: Yes.

23 THE WITNESS: Yes.

24 THE COURT: So the designations are based upon your
25 own visualization.

1 THE WITNESS: As a part of procedure, when we perform
2 a search warrant, every room is identified by a letter so that
3 we can refer to it in the future. On that particular day --
4 want to say what I observed? I observed every room.

5 THE COURT: I'm just asking in terms of this
6 spreadsheet, it contained some reference to where certain files
7 were found, what rooms? Is that it?

8 THE WITNESS: It's where a device is found. That's
9 my procedure, correct.

10 THE COURT: Yes. And the question is simply whether
11 the insertion in your chart is based upon something you saw or
12 something that was told to you.

13 THE WITNESS: I saw room G. I saw a computer in room
14 G.

15 THE COURT: The computer in question?

16 THE WITNESS: Correct.

17 THE COURT: All right.

18 Objection is overruled.

19 BY MR. HUGHES:

20 Q. Did you perform the same forensic analysis on that digital
21 device that you performed on the iMac?

22 A. Yes. That computer is a little -- well, it's different
23 because it had four hard drives compared to the iMac which only
24 had one. But, yes, the same steps I followed, and just more
25 steps because four images instead of one.

1 Q. Did you make a forensic image of each hard drive?

2 A. I did. Verified that they were in fact exact duplicates
3 of the original.

4 Q. Would you please turn to Exhibit 155.

5 MR. BRODY: Your Honor, before we get to testimony in
6 this, I'll be objecting to the relevance of this exhibit.

7 THE COURT: I don't know what it is because my 155 is
8 blank. My -- there's no -- it must be a different exhibit. I
9 don't have a 155, or do I? Let me see.

10 I do have a 155. Okay. I do. I see it now. Just
11 one moment.

12 Before there's any further testimony, let me examine
13 it.

14 There was an objection, was there?

15 MR. BRODY: Objection as to relevance, Your Honor.

16 THE COURT: Yes. The relevance isn't apparent to the
17 court. So maybe we should go to the sidebar.

18 MR. BRODY: Yes, Your Honor.

19 (Proceedings held at sidebar:)

20 THE COURT: What's the relevance of this?

21 MR. HUGHES: During the period of the alleged
22 conspiracy, defendant Sean David Morton opened a bank account
23 with Bank of America using a number that did not come up on any
24 search of the government's taxpayer identification.

25 DEFENDANT SEAN DAVID MORTON: United States

1 government --

2 MR. HUGHES: It is apparent that he used a Canadian
3 Social Security card to open that account in the United States.

4 THE COURT: He used this --

5 MR. HUGHES: That number with the same taxpayer
6 identification identified in the --

7 THE COURT: And so what was the signature card number
8 supposed to be?

9 MR. HUGHES: His Taxpayer Identification Number.

10 THE COURT: You're saying that the number on this
11 driver's license was the number he used?

12 MR. HUGHES: I believe it's a Canadian social
13 insurance number.

14 THE COURT: 924189 --

15 MR. HUGHES: That's right, Your Honor.

16 THE COURT: Okay. All right.

17 DEFENDANT SEAN DAVID MORTON: Can I explain, Your
18 Honor?

19 THE COURT: Wait. Come back.

20 DEFENDANT SEAN DAVID MORTON: I was living and
21 working in Canada for Asgaard Media in Canada on a work permit,
22 social insurance card, driver's license and bank account. I
23 was required to go to physical work in Vancouver.

24 THE COURT: What was your objection?

25 MR. BRODY: Objection, relevance. Fail to see how

1 the fact that he had these documents or used them to open a
2 bank account has anything to do with the tax returns filed with
3 the --

4 THE COURT: It has some circumstantial relevance.
5 I'll allow it. You can argue it.

6 (Proceedings resumed in open court)

7 THE COURT: The document is received.

8 (Government's Exhibit 155 received in evidence.)

9 MR. HUGHES: Thank you, Your Honor.

10 May I have one moment, Your Honor?

11 THE COURT: Yes.

12 MR. HUGHES: Your Honor, was this document received?

13 THE COURT: Yes.

14 MR. HUGHES: Let's go ahead and publish.

15 THE COURT: You're arguing now. Take it off and
16 argue it at the right time.

17 Any further questions?

18 Cross-examination.

19 **CROSS-EXAMINATION**

20 BY DEFENDANT SEAN DAVID MORTON:

21 Q. Good morning, John.

22 A. Good morning.

23 Q. Again, I have to ask you, is John Kirsling your real name?

24 A. Yes.

25 Q. Some of the guys use aliases so ...

1 Okay. When you witness the -- something wrong with
2 the microphone? There you go. Thank you.

3 Okay. When you went into the house, did you find any
4 computers or any relevant evidence under the beds which were
5 turned over, or did you witness the beds had been turned over?

6 A. No.

7 Q. So nothing under the beds?

8 All right. How long does it take to -- well, first
9 off, what was relevance of the Internal Revenue Service taking
10 all of the phones of the man and woman here in the court today?
11 Was there any relevance to taking the telephones, all the
12 telephones?

13 A. They're within the scope of the warrant for me to examine
14 them offsite forensically.

15 Q. Did you find anything on the telephones?

16 A. No, we did not, and they were returned.

17 Q. After how long?

18 A. I don't have that information.

19 Q. Two months? Three months? Seven months?

20 A. Couldn't tell you.

21 Q. How long does it take to -- did you or did you not onsite
22 say it would take you -- actually say to me that it would take
23 you about 48 hours to download the drives, and that the IRS
24 would then return the computers?

25 A. I don't recall ever having that conversation with you,

1 sir.

2 Q. Okay.

3 How long did it take to actually return the
4 computers?

5 A. I believe those were returned in March the following year.

6 Q. Seven months? Seven months after -- were they returned
7 because the man and woman here today had to go to court to get
8 them returned, not actually voluntarily returned by you?

9 A. This particular search warrant was on an instrumentality
10 warrant. So if the assistant U.S. attorneys wanted to argue
11 instrumentality on those devices, they could keep them.

12 MR. BRODY: Objection, Your Honor, to the question,
13 and a nonresponsive answer.

14 THE COURT: The objection is sustained as to both.

15 BY DEFENDANT SEAN DAVID MORTON:

16 Q. Is there any proof that a man and woman here today -- do
17 you have eyewitness testimony that a man or woman here today
18 created those documents?

19 A. I do not.

20 Q. Thank you.

21 Do you have any proof that the man or woman here
22 today had willful intent or culpability to defraud?

23 A. I do not.

24 Q. Okay. Thank you.

25 So you didn't -- so once again, no culpability.

1 All right. I guess that's it. No further questions.

2 THE COURT: Thank you, sir. Sir, you may step down.

3 MR. BRODY: Oh, I'm sorry, Your Honor. Can I --

4 THE COURT: I'm sorry. You didn't have a chance. I
5 apologize.

6 MR. BRODY: Not at all, Your Honor.

7 **CROSS-EXAMINATION**

8 BY MR. BRODY:

9 Q. Good afternoon, Agent.

10 A. Good afternoon.

11 Q. So you were the head of the computer arm of this search;
12 is that accurate?

13 A. Yeah.

14 Q. You were in charge of the --

15 A. Digital device found onsite, yeah.

16 Q. And during the course of that seizure, you seized an Apple
17 Mac Pro that we heard about, correct?

18 A. Correct.

19 Q. And also a Monsoon 300 gigabyte hard drive?

20 A. I remember it being a Monsoon. I don't remember the exact
21 size.

22 Q. Would it refresh your recollection to look at the copy of
23 the inventory from the search?

24 A. Sure.

25 MR. BRODY: Your Honor, may I approach?

1 THE COURT: Yes.

2 BY MR. BRODY:

3 Q. Just look through that quietly to yourself, if you don't
4 mind.

5 Does that help refresh your recollection?

6 A. Yes.

7 Q. So was there a Monsoon 300 gigabyte hard drive seized?

8 A. Yes.

9 Q. Okay.

10 And there was also another Apple Mac Pro that was
11 taken, correct?

12 A. I believe that is incorrectly on here, because I remember
13 there being a Mac Pro and a MacBook Pro. So I believe it's
14 probably -- I know there in the closet was a MacBook Pro.

15 Q. Okay. So perhaps that is a mistake.

16 So a MacBook pro was seized?

17 A. Correct.

18 Q. And Motorola cell phone?

19 A. Yes.

20 Q. And a Samsung cell phone?

21 A. Two Samsung cell phones.

22 Q. Two Samsung cell phones.

23 And an LG cell phone?

24 A. Correct.

25 Q. An Apple iMac desktop computer?

1 A. Correct.

2 Q. A one terabyte SimpleTech hard drive?

3 A. Correct.

4 Q. And then two external WD hard drive models -- model hard
5 drives?

6 A. Correct.

7 Q. And those items were all collected from the Mortons' home,
8 right?

9 A. From the search warrant site.

10 Q. From the search warrant site.

11 A. Yes.

12 Q. And the government examined all of those devices, correct?

13 A. Correct.

14 Q. Did you personally examine those devices?

15 A. I did.

16 Q. Okay. So we saw some files from the Mac computers, but
17 did we see any files from the hard drives?

18 A. External hard drives?

19 Q. From the external hard drives.

20 A. I saw many files.

21 Q. You saw many files, but we didn't see any earlier in the
22 exhibits; is that correct?

23 A. You didn't see files that were within the scope of the
24 warrant.

25 Q. I'm sorry. My question is when the prosecutor was showing

1 you exhibits earlier?

2 A. Yes. You're referring to all the exhibits prior to now
3 that we --

4 Q. Yes.

5 A. Okay.

6 Q. Those exhibits were found on the Macintosh computers,
7 right?

8 A. Correct.

9 Q. Those were not from the hard drives.

10 A. No.

11 Q. But you yourself did review the contents of the hard
12 drives?

13 A. I did.

14 Q. For pertinent material, correct?

15 A. Correct.

16 Q. Okay.

17 Now, there were emails on the Macintosh computers,
18 correct?

19 A. I can't recall it.

20 Q. And there were letters on -- were there letters, drafts of
21 letters on the computers?

22 A. Drafts of letter?

23 Q. Drafts of letters.

24 A. Okay. If you're referring to the previous exhibits --

25 Q. I'm not referring to previous exhibits.

1 A. You're not? You're asking about if I found them?

2 Q. Yes.

3 A. Yes.

4 Q. Okay.

5 And there were Skype chat messages that were on the
6 machines as well; is that correct?

7 A. I don't recall that.

8 Q. You don't remember?

9 A. No.

10 Q. Do you remember if there were any Internet messaging --

11 A. I don't remember.

12 Q. -- logs that were found on the computer at all?

13 A. I don't recall.

14 Q. Okay.

15 In total, between all of the computers and the hard
16 drives that were seized, how many total files would you say
17 came into the possession of the IRS as a result of the search?

18 A. Total files?

19 Q. Total files.

20 A. Millions.

21 Q. Millions. Okay.

22 As to the cell phones, the government has the
23 technology that allows them to access the contents of the cell
24 phones, correct?

25 A. Most.

1 Q. Are you familiar with the Cellebrite?

2 A. Correct.

3 Q. And a Cellebrite is what?

4 A. It's a forensic cell phone examiner.

5 Q. And what exactly does it -- I'm sorry.

6 What exactly does it give you?

7 A. It extracts files from a cell phone if it's -- I mean,
8 there's some limitations. If the phone is encrypted, it can't
9 crack the encryption and get in.

10 Q. Were any of these -- did you look at the phones in this
11 case?

12 A. I did.

13 Q. Were they encrypted?

14 A. No.

15 Q. You had no trouble reviewing contents of the phones?

16 A. I'm not 100 percent sure, but I just remember we didn't
17 find anything within scope, and returned them.

18 Q. Okay.

19 Now, you said you made a forensic image of the
20 computers, right?

21 A. Two.

22 Q. Of the two computers?

23 A. No. I make two --

24 Q. I'm sorry.

25 You made two forensic images?

1 A. Correct. One that I keep in the original state so that it
2 can be -- it's an exact duplicate of what's the original was.

3 Q. Okay.

4 A. And then I made another copy that's -- I call it a working
5 copy.

6 Q. Okay.

7 Let me ask you this way, and this is probably not the
8 right language, but how many computers did you forensically
9 image? Does that make sense?

10 A. From there?

11 Q. Yes.

12 A. Three.

13 Q. Three. Okay.

14 And as you said, that gives you a complete copy of
15 everything that's on the computer?

16 A. Correct.

17 Q. And that includes even deleted files?

18 A. Correct.

19 Q. And you're able to search through that forensic copy at
20 will once you've got it?

21 A. Yes.

22 Q. Okay.

23 And so, in effect, it's like the next best thing to
24 having the computer itself, right?

25 A. It is the computer.

1 Q. It is the computer?

2 A. Yeah.

3 Q. And you didn't encounter any password-locked areas in the
4 computer, did you?

5 A. I did not.

6 Q. Okay.

7 When was the -- when were the computers imaged,
8 roughly? Was it within a month of the search?

9 A. I couldn't tell you exactly, but it was probably within a
10 month.

11 Q. Okay.

12 So from that time until today, you've had the ability
13 to search the Mortons' computers?

14 A. No, no.

15 Q. No?

16 A. No.

17 Q. So you're not able to go back to your office now and look
18 at the Mortons' computers?

19 A. No.

20 Q. Why is that?

21 A. I'm legally prohibited from doing that.

22 Q. So at what point were you no longer able to search through
23 the computer?

24 A. I believe we had filed an extension in this case. So I
25 don't remember the exact date. I'd be guessing if I told you,

1 but probably six months after the execution of the warrant.

2 Q. Okay. So maybe for six months?

3 A. Six, nine months after.

4 Q. Okay.

5 DEFENDANT SEAN DAVID MORTON: Objection, vague.

6 Was it six or nine months?

7 MR. BRODY: I'm sorry, Mr. Morton. Can you let me
8 finish my examination?

9 THE COURT: Overruled.

10 BY MR. BRODY:

11 Q. As to the documents, some of the documents that we saw
12 that were seized from the computer, the .pdf documents --

13 A. Yes.

14 Q. -- some of those were originally Word documents, correct?

15 A. Could have been, yes.

16 Q. And you said that -- when we looked at the document that
17 showed who the user was of that -- that created that document,
18 does that mean --

19 A. Didn't necessarily mean it's created.

20 Q. Okay.

21 A. It just means where that file is found on the computer.
22 It's the path. So it's where if you went to like a Windows
23 Explorer and looked under John or -- and drilled down, you'd
24 actually find that particular file name.

25 Q. So it's associated with the user from Windows Explorer?

1 A. In this case in the Macintosh, yes.

2 Q. And can you say something -- can you tell us with Windows
3 Explorer you have, you can have different users?

4 A. Yeah.

5 Q. Okay.

6 A. You can have many users on a computer, a guest person.
7 You have to have different log-ins, obviously, but you can just
8 make up a folder if you wanted to and just call it different
9 names.

10 Q. And log-ins don't have to have passwords, right?

11 A. No.

12 Q. And there's no way for you to know, even looking at the
13 forensic image, who was actually using the computer when those
14 documents were either created, opened, used or otherwise,
15 right?

16 A. That's correct.

17 MR. BRODY: Thank you, Agent. Appreciate it.

18 THE WITNESS: You're welcome.

19 THE COURT: Thank you, sir.

20 Call the next witness.

21 DEFENDANT SEAN DAVID MORTON: At this point, Your
22 Honor, I would like to -- it is my wish and desire that we toss
23 all evidence that has to do with Skype messages, everything
24 that came from the phones and everything that came from the
25 emails simply because this witness has testified that he didn't

1 review them, doesn't know what's on them and was testifying
2 that he didn't access them.

3 THE COURT: Are any of the exhibits --

4 MR. BRODY: No, Your Honor. They were just .pdf
5 files and Word files.

6 THE COURT: I see.

7 MR. BRODY: No emails --

8 THE COURT: Thank you.

9 DEFENDANT SEAN DAVID MORTON: So --

10 THE COURT: Call the next witness.

11 DEFENDANT SEAN DAVID MORTON: Can I strike -- the
12 Skype message is granted?

13 THE COURT: No. There's no evidence of that type in
14 the exhibits.

15 DEFENDANT SEAN DAVID MORTON: Actually --

16 MS. MAKAREWICZ: Government would call William Kerr
17 to the stand, please.

18 THE CLERK: Please step forward, and stand behind the
19 court reporter.

20 (Witness sworn.)

21 THE WITNESS: I do.

22 THE CLERK: Please have a seat.

23 Please state your name, your full name, and spell it
24 for the record.

25 THE WITNESS: William C. Kerr, K-e-r-r.

WILLIAM KERR; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:

DIRECT EXAMINATION

BY MS. MAKAREWICZ:

Q. Good morning, Mr. Kerr.

A. Good morning.

Q. Are you currently employed?

A. I am self-employed, yes.

Q. What is the name of your business?

A. William C. Kerr & Associates, LLC.

Q. What service does it provide?

A. I basically provide consulting and investigative services for various types of financial fraud, primarily fictitious financial instruments and high-yield investment fraud.

Q. Can you describe the type of education you completed to allow you to perform that task.

A. I'm a graduate of Miami University, Oxford, Ohio. I have a bachelor's in business, majored in accounting. During my career with the Office of the Comptroller of the Currency as a national bank examiner, I attended various courses regarding banking, finance, financial instruments, other economic courses, and subsequently I did take some graduate courses at graduate school in D.C.

Q. Can you describe your work at the -- you mentioned the Office of Comptroller of Currency. Can you describe what you did there?

1 A. Yeah. The Office of the Comptroller of the Currency is
2 the federal regulatory agency that issues charters for national
3 banks. Like Bank of America, Wells Fargo, those are national
4 banks. So that agency issues the charter for the bank to do
5 business, and then they are also responsible for supervising
6 the institution, examining them, make sure they're asset
7 quality is good, and that they're complying with all the law --

8 Q. I'm sorry. All --

9 THE COURT: What years did you work as a national
10 bank examiner?

11 THE WITNESS: I started in 1963? Yes.

12 THE COURT: Until when?

13 THE WITNESS: Until 2007. Five years in between I
14 was in commercial banking. So I have a total of 39 years of
15 bank examining experience.

16 BY MS. MAKAREWICZ:

17 Q. During your time -- is the Office of Comptroller Currency
18 commonly referred to as OCC?

19 A. Yes, it is.

20 Q. During your time with the OCC, were you called upon to
21 determine whether certain financial instruments were fake or
22 genuine?

23 A. Yes. Starting in 1995, I specialized along with another
24 fellow in fictitious financial instruments and high-yield
25 investment fraud.

1 Q. How often have you looked at fictitious financial
2 instruments?

3 A. Hundreds, if not thousands, of times since 1995.

4 Q. I'd like to ask you about some definitions that are
5 particular to your line of work.

6 Can you explain to the jury what is a financial
7 instrument?

8 A. Financial instrument, the simplest would be like a check.
9 It is dated, has an amount, it's payable to a person. It's
10 drawn upon a specific account at some location, some
11 institution. And it's signed by you or whoever owns the
12 account. That would be true for a check, a money order, or
13 bonds, and like an E bond?

14 MR. BRODY: Your Honor, I'm sorry. I'm going to
15 object to that answer. It's effectively describing one of the
16 components of the alleged crimes. So I move to strike it.

17 THE COURT: I didn't quite understand that.

18 MR. BRODY: I'm objecting to that as, effectively, a
19 statement of law, Your Honor, in this case.

20 THE COURT: Well, I don't think it is. I think he is
21 just generally describing what, in this witness's experience,
22 is commonly thought of as a financial instrument. I don't
23 think it goes to anything in this case. He's just giving a
24 generic description.

25 Is that right?

1 THE WITNESS: Yes. What is a financial instrument --

2 THE COURT: It can stand on that basis.

3 MR. BRODY: Thank you, Your Honor.

4 DEFENDANT SEAN DAVID MORTON: Your Honor, I'd like to
5 object to this witness as hearsay and failure to state a claim
6 upon which relief can be granted. He has no experience with --
7 he has no experience with anything in this case other than what
8 the prosecution has shown him.

9 THE COURT: Objection is overruled.

10 BY MS. MAKAREWICZ:

11 Q. Mr. Kerr, in the context of your work, what does
12 "fictitious" mean?

13 A. Fictitious means something that basically does not exist
14 in the legitimate financial world.

15 Q. What is a security?

16 A. A security can be a bond, generally speaking, a stock
17 certificate. So you can buy state bonds, you can buy U.S.
18 government bonds, you can buy various types of stocks, bonds on
19 the market. So those are securities.

20 Q. Have you testified before as to the nature of financial
21 instruments?

22 A. Yes, I have.

23 Q. Can you approximate how many times?

24 A. It's been over 70 times.

25 Q. Now, in the context of this case, were you asked to

1 examine financial instruments?

2 A. Yes, I was.

3 MS. MAKAREWICZ: I'd like to publish Exhibit 14, page
4 20, which has been admitted into evidence.

5 Q. It will be in front of you on the screen, Mr. Kerr.

6 A. Okay.

7 Yes.

8 Q. Is this one of the instruments that you were asked to
9 review for your testimony today?

10 A. Yes, it is.

11 Q. In your opinion, does this document appear to be a
12 financial instrument?

13 A. Yes, it qualifies. It's dated. It has an amount certain.
14 It is payable to an individual -- or a company, United States
15 government, right here, and it is apparently made by
16 Mr. Morton, as indicated there, and it is signed. So we have
17 the date, we have the amount, payable to, and signed.

18 Q. What about the series of numbers at the bottom of this
19 document? Can you discuss that for the jury?

20 A. Yes.

21 I'm sure you're all familiar with a standard check or
22 a money order, and this would be the same type of encoding
23 that's at the bottom of your check. And in this case, this is
24 called a "Coupon for Set-off, Settlement and Enclosure," but it
25 looks in the format of a check. And down at the bottom you'll

1 see the first slash with the two little dots. That is the
2 symbol that proceeds and follows the bank routing number.

3 So this number, 061000146, is the routing number for
4 the Federal Reserve Bank of Atlanta. Each bank, such as Bank
5 of America, so forth, have a separate number so that the bank
6 systems can tell where the check goes. So this is encoded in a
7 special encoding print format. It's called M-I-C-R, which is
8 MICR encoding. This also can be read by optical scanners.

9 Q. What about the second part? Can you discuss that?

10 A. Yeah. The second number in the system, and this is a
11 standard format that's used on all the financial instruments,
12 the second number would be the account number upon which the
13 item is drawn. So you have the bank routing number first,
14 where it's going to, and then once it gets to the financial
15 institution, the second one would be looked for the account
16 number to charge the check against.

17 Q. Now, you mentioned that the routing number belonged to the
18 Federal Reserve.

19 A. Yes. That number is specific to the Federal Reserve Bank
20 of Atlanta.

21 Q. How about the account number?

22 A. The account number does not exist at the Federal Reserve
23 Bank of Atlanta.

24 Q. And how do you know that?

25 A. This check was a process, it rejected, and, therefore, it

1 does not exist. Because the system would have looked at it,
2 and with this information, this check, this item could be
3 processed because it's encoded at the bottom. Goes into the
4 system, once the system tries to process it, can't find, in
5 effect, a home, place to charge it, it rejects it and sends it
6 back.

7 Q. In your experience, what is this instrument purporting to
8 do?

9 A. It's purporting to --

10 MR. BRODY: Objection -- I'm sorry -- objection,
11 foundation, speculation.

12 THE COURT: Overruled.

13 BY MS. MAKAREWICZ:

14 Q. Mr. Kerr?

15 A. The check is purporting to pay \$5,286,167.75 to the United
16 States Treasury drawn upon an account at the Federal Reserve
17 Bank of Atlanta, which has the routing number as indicated
18 there.

19 Q. Are there aspects to this document that make it appear
20 legitimate?

21 A. Absolutely. It is a good looking, quality document. And
22 you'll notice here, right at the top, it says, "For security
23 purposes, the face of this document contains a colored
24 background and micro imprinting in the border."

25 And what you see down here, if you look down under

1 "Authorized Signature," this line down here looks like a solid
2 line. In reality, that is microscopic printing that might say
3 the words "security" or something else.

4 Q. In your opinion, is this document a genuine or fictitious
5 financial instrument?

6 A. It is fictitious because there is no account upon which it
7 can be drawn.

8 Q. In your experience, what does it mean for something to be
9 paid under the authority of the United States?

10 A. Paid under the authority of the United States would be
11 that the United States, or for some agency in the United
12 States, has authorized the payment of the instrument.

13 Q. In your opinion, is the document on the screen purport to
14 be issued under the authority of the United States?

15 A. It does appear to be so, and it's signed --

16 DEFENDANT SEAN DAVID MORTON: Objection, speculation.

17 THE COURT: Overruled.

18 THE WITNESS: It does appear to be so, and is signed
19 by -- as signature, Sean David Morton, authorized
20 representative. And authorized representative going down to,
21 again, the routing number in the account at the Federal Reserve
22 would indicate that this is trying to be paid from the United
23 States government.

24 BY MS. MAKAREWICZ:

25 Q. Do private individuals have the authority to write checks

1 against the Federal Reserve?

2 A. No, they do not.

3 Q. Is it possible that there is an account at the United
4 States Treasury that Mr. Morton might use to pay his debts in
5 this manner?

6 A. No. There are -- at the United States Treasury there are
7 no accounts that any person, including Mr. Morton, can use to
8 pay -- draw like a draft, a check, money order, to pay to a
9 third party. So there are no accounts in existence to that
10 effect.

11 Q. Does the United States issue paper securities any longer?

12 A. No. Since 1986, United States government converted to
13 fully electronic processing. No more paper documents were
14 issued. When you buy a U.S. government security, it now
15 becomes, in effect, an entry on the books of the Treasury that
16 you own that security. You no longer receive a physical
17 document.

18 Q. To your knowledge, does defendant Sean David Morton have
19 the authority to direct payments from the Treasury?

20 A. He does not.

21 Q. Does he have the authority to obligate the Secretary of
22 the Treasury?

23 A. He does not.

24 Q. Can we turn to page 22 of this document.

25 Mr. Kerr, have you seen this document before?

1 A. Yes, I have.

2 Q. Can you describe it or describe what it purports to be.

3 A. It says it's a Letter of Rogatory and Affidavit and again
4 appears to be in support of a tax account up here. It's dated
5 November of 2010, addressed to the Internal Revenue Service.
6 It's a type of instructions to the Internal Revenue Service.

7 Q. Can you turn to page 24 of this exhibit, please.

8 Could you zoom in to paragraph eight.

9 Mr. Kerr, prior to today, have you reviewed this
10 paragraph?

11 A. Yes, I have.

12 Q. And can you tell the jury what, in your opinion, this
13 paragraph means?

14 A. In the process of issuing these types of instruments, and
15 the overall philosophy in doing this, it's talking about -- if
16 you'll see here at the top, "request the IRS to return the
17 overpayment in the amount of 1,762,000."

18 And if you recall, the security enclosed was in this
19 amount, \$5,286,000, plus. And this is a classic example of
20 this type of process being used by individuals to try to obtain
21 money back from --

22 MR. BRODY: Objection, Your Honor. Improper
23 testimony.

24 THE COURT: Yes. The objection is sustained, and the
25 answer is stricken.

1 MR. BRODY: Thank you, Your Honor.

2 THE COURT: The jury is instructed to disregard it.

3 MS. MAKAREWICZ: Can you turn to Exhibit 20, page 16,
4 please.

5 Q. Mr. Kerr, prior to today, were you asked to examine this
6 document?

7 A. Yes, I was.

8 Q. In your opinion, does this document appear to be a
9 financial instrument?

10 A. Yes, it does.

11 DEFENDANT SEAN DAVID MORTON: Once again, objection,
12 because the document is incomplete. It goes with an entire
13 package of documents as well.

14 THE COURT: Objection is overruled.

15 BY MS. MAKAREWICZ:

16 Q. What type of financial instrument, sir?

17 A. It appears to be -- it says at the top "Discharging Bond."
18 So it's a type of bond.

19 Q. What is the basis for your determination that is a bond?

20 A. It says it is a bond. It starts out, again, being a
21 financial instrument. We're talking about it's the maker,
22 right here. It is an amount down here --

23 MS. MAKAREWICZ: Would we like to zoom in?

24 THE WITNESS: Okay.

25 Again, we have the maker, Mr. Sean David Morton;

1 using an address of 1500 Pennsylvania Avenue. That is the
2 address of the United States Treasury. We have the, in effect,
3 paid to the United States Department of Treasury; the amount,
4 10 million; and it is dated 2013 and maturing in 2014.

5 So, again, it appears to be and have the criteria for
6 a bond. And, again, at the bottom it is also signed.

7 BY MS. MAKAREWICZ:

8 Q. Are these, all of these features, typical of a bond?

9 A. Yes, they are.

10 Q. So in your opinion, is this a legitimate financial
11 instrument?

12 A. No, this one is not.

13 Q. Why?

14 A. Because, again -- if you want to zoom again on the top
15 part. Okay.

16 It's talking about the transfer -- excuse me -- the
17 clearing of the securities intermediary, which is described
18 elsewhere as being the payee, the one who is going to pay the
19 instrument. It's 10 million.

20 Now, if we can go to the lower part of the bond.

21 It is signed by Mr. Morton, which is the sign, and
22 it's talking about using the Treasury offset program as part of
23 the payment for this instrument. Mr. Morton does not have
24 access to the Treasury offset program, and being payable to the
25 Treasury drawn on an account that does not exist at the

1 Treasury.

2 Q. Can we turn to page 20 -- excuse me -- Exhibit 20, page
3 three.

4 Mr. Kerr, prior to today, have you examined this
5 document?

6 A. Yes, I have.

7 Q. Can you describe what this document purports to be?

8 A. This is -- appears to be a letter addressed to the U.S.
9 Department of Treasury, Jacob J. Lew, Secretary of the
10 Treasury.

11 Q. Are these the orders telling the recipient of this
12 document what to do?

13 A. Yes. This is part of the instructions that went along
14 with the bond, and the bond did say that this is part of it as
15 a package.

16 Q. Can we turn to the next page, please.

17 I'd like to draw your attention to -- thank you --
18 this area of page -- of the second page of this document.

19 A. Yes.

20 Q. Can you discuss what the exchange stabilization fund and
21 special drawing rights have to do with this financial
22 instrument.

23 A. This instrument, as part of the instructions, is saying
24 that the bond that we looked at in the previous example is to
25 use the -- Exchange Stabilization Fund, abbreviated ESF, as

1 part of the funding for that bond, and that's here. And then
2 the way to access is through special drawing rights, which are
3 actually from the International Monetary Fund, and so what this
4 is saying is that Mr. Morton has directed the funds to come
5 from the Exchange Stabilization Fund through the special
6 drawing rights to pay for the security.

7 Q. Does this --

8 A. The Exchange Stabilization Fund is a U.S. government fund
9 that is used only by the government, and no individuals have
10 access to it.

11 Q. Mr. Morton doesn't have access?

12 A. No individual does, no.

13 Q. Could this -- pardon me. Can we go back to the bond.

14 Twenty, page 16.

15 Could this bond have been processed, Mr. Kerr?

16 A. Yes, it could. I mean it has the criteria of a financial
17 instrument. As I said, it's dated, has an amount, payable to,
18 and it's signed. So it can be. It's not going to be processed
19 in the same manner as a check or money order, but there is a
20 process for paying bonds.

21 Q. In your opinion, is this a legitimate financial
22 instrument?

23 A. No, it's not.

24 Q. Can you turn to Exhibit 21-27, please.

25 Mr. Kerr --

1 THE COURT: Do you have much further to go with this
2 witness?

3 MS. MAKAREWICZ: I'm at a point where I could stop,
4 Your Honor.

5 THE COURT: All right.

6 Let's stop for the lunch hour, come back at about
7 1:00, 1:05.

8 (Noon recess)

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1 **LOS ANGELES, CALIFORNIA; WEDNESDAY, APRIL 5, 2017; 1:10 P.M.**

2 - - - - -

3 (Open Court - Jury Present)

4
5 MS. MAKAREWICZ: Before the break, we were turning to
6 Exhibit 21, page 27.

7 May I ask for that to be called up? This is already
8 in evidence.

9 Q. Mr. Kerr, were you asked to examine this document?

10 A. Yes, I was.

11 Q. And what does this document purport to be?

12 A. It purports to be a bond type of instrument.

13 Q. Is this the same document that we reviewed prior to the
14 lunch break with respect to Mr. Morton?

15 A. Yes, it is.

16 Q. What's the difference?

17 A. The only difference on this instrument versus the other
18 instruments you would find going down through the information
19 on there is the fact that it may be payable to a different
20 person; it may be payable in a different amount; the dates
21 might be different; and will probably have a different number
22 on them; but other than that, the basic instrument is
23 identical.

24 DEFENDANT SEAN DAVID MORTON: Objection to the word
25 "payable." It doesn't say anywhere payable to the person that

1 signed it anywhere on this, payable to them. So objection to
2 that word "payable" intimating that it's payable to the
3 defendant.

4 THE COURT: Overruled.

5 DEFENDANT SEAN DAVID MORTON: Okay.

6 BY MS. MAKAREWICZ:

7 Q. How much is this bond for?

8 A. This bond is for -- I believe the amount is still down
9 below there.

10 Q. Here?

11 A. Yeah. \$600,000.

12 Q. And in whose name is this bond?

13 A. The name is -- the maker of the bond is Melissa A.
14 Thomas.

15 Is that what you're asking? I'm sorry.

16 Q. Yes, sir, it was.

17 A. And it has an address of 1500 Pennsylvania Avenue, which
18 is the address of the United States Treasury.

19 Q. And what is this bond purporting to do?

20 A. It is purporting to pay \$600,000 from the payee, which is
21 the U.S. Department of the Treasury, and it is being paid
22 credit to an account, applied to account, CUSIP account
23 No. 529310087.

24 Q. What is a CUSIP account, or CUSIP number?

25 A. CUSIP number is a number assigned to any stock or

1 security. In other words, each U.S. government security has a
2 specific CUSIP number assigned to it. If you own stock in,
3 let's say, Bank of America, it would have a CUSIP number
4 assigned to it. If you own Ford Motor Company stock, it would
5 have a different number assigned to it. So it's an identifying
6 number for each type of security.

7 MS. MAKAREWICZ: Can you turn to page 21-3, please.

8 Q. Mr. Kerr, in your review, did you review this document?

9 A. Yes, I did.

10 Q. And is this document similar to the one that we discussed
11 with respect to defendant Sean David Morton?

12 A. Yes, it is. It is a letter addressed to the U.S.
13 Department of Treasury, the Secretary of the Treasury, Jacob J.
14 Lew.

15 MS. MAKAREWICZ: Can we turn to the next page,
16 please, page four.

17 Q. Again, does this document also contain the same language
18 regarding the ESF and SDR rights?

19 A. Yes, it does. It says it's being paid from the Exchange
20 Stabilization Fund via special drawing rights, which is from
21 the International Monetary Fund.

22 Q. To your knowledge, does Mrs. Morton have the authority to
23 direct payments from the Treasury or the Secretary of the
24 Treasury?

25 A. No, she does not.

1 Q. In your opinion, is the document that we looked at, the
2 bond, a legitimate financial document?

3 A. No, it is not.

4 MS. MAKAREWICZ: Can we turn to Exhibit 58, page 47,
5 please.

6 Q. Have you seen this document before?

7 A. Yes, I have.

8 Q. Where -- did I provide it to you for your review?

9 A. Yes, you did.

10 Q. Thank you.

11 And what does this document purport to be?

12 A. It purports to be a certified registered security, the
13 title at the top, "A Payment Bond."

14 Q. To whom is it paid to?

15 A. This one is paid to the Franchise Tax Board in the amount
16 of \$1 million.

17 Q. And who is the maker of the bond?

18 A. The maker of the bond is down here at the lower level, it
19 says "Sean Morton."

20 Q. Is this document the same as the ones that we just
21 reviewed?

22 A. It is very similar in style, it's a little different
23 style, but basically it contains the same contents as the other
24 bonds, yes.

25 Q. Who was this bond purporting to pay?

1 A. It is paying the -- to the Franchise Tax Board \$1 million.

2 Q. And the Franchise Tax Board is a taxing authority of
3 California, right?

4 A. That is correct, yes.

5 Q. As -- just as the IRS is the agency of the U.S. Department
6 of Treasury?

7 A. That is correct.

8 Q. Thank you.

9 Did you also review the documents that accompanied
10 this document?

11 Page 29, please.

12 Did you review this, Mr. Kerr?

13 A. Yes. Each of these documents were actually a group of
14 documents that I reviewed in toto.

15 Q. And again, this document at page 50 -- Exhibit 58-29, is
16 virtually similar in substance to the ones that we've already
17 reviewed.

18 A. Yes. It's addressed to the California Franchise Tax
19 Board, but basically it does the same thing. It provides
20 information as to providing, in this case, a \$1 million type of
21 payment to them.

22 Q. Can you turn to page 32, please.

23 MS. MAKAREWICZ: Can we go back to the bond. I
24 apologize. Forty-seven.

25 Q. Mr. Kerr, in your opinion, is this document a legitimate

1 financial document?

2 A. No, it is not.

3 Q. Does Sean David Morton have the authority to direct the
4 payment of these funds from the Treasury Department to the
5 California Franchise Tax Board?

6 A. No, he does not.

7 MS. MAKAREWICZ: Can we turn to Exhibit 55, page six,
8 please.

9 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor,
10 this document was stricken.

11 THE COURT: I don't remember that. Is that your
12 recollection?

13 DEFENDANT SEAN DAVID MORTON: Yeah, this document was
14 stricken.

15 MS. MAKAREWICZ: I believe it is in evidence.

16 DEFENDANT SEAN DAVID MORTON: Yeah, this document was
17 stricken. This was the Dannion Brinkley document which Your
18 Honor withdrew.

19 THE COURT: I don't believe I did.

20 MS. MAKAREWICZ: You admitted 55, Your Honor.

21 THE COURT: Yes.

22 MS. MAKAREWICZ: And if I might beg the court's
23 indulgence, I need to use the overhead because the copy machine
24 cut off the top.

25 THE COURT: Okay.

1 BY MS. MAKAREWICZ:

2 Q. Can you see that Mr. Kerr?

3 MR. BRODY: I apologize.

4 Your Honor, I do object as to relevance in light of
5 the previous ruling on the other Dannion Brinkley document.

6 THE COURT: There was a Dannion Brinkley
7 instrument -- or at least an instrument with that person's name
8 admitted.

9 MS. MAKAREWICZ: Yes.

10 THE COURT: Is this a different Dannion Brinkley
11 document?

12 MS. MAKAREWICZ: No. This the same document.

13 THE COURT: I see. All right. Proceed.

14 MS. MAKAREWICZ: Thank you.

15 Q. Mr. Kerr, did you examine this document?

16 A. Yes, I did.

17 Q. And what does this document purport to be?

18 A. Again, it purports to -- the maker is Mr. Dannion Howard
19 Brinkley, purports to pay \$600,000. It's from U.S. Department
20 of Treasury.

21 Q. Is this the same as documents we've just reviewed,
22 Mr. Kerr?

23 A. Basically, yes, except for, again, the name, the amount,
24 dates, account number.

25 THE COURT: When you say "the same as documents we've

1 reviewed," we've reviewed -- or you reviewed different types of
2 documents.

3 So I would suggest that you refer to them by their
4 heading, "Other Non-Negotiable Discharging Bonds and Indemnity
5 Documents."

6 MS. MAKAREWICZ: Yes, sir. Thank you, Your Honor.

7 Q. Is this exhibit similar to the Non-Negotiable Discharging
8 Bond and Indemnity that we've been reviewing as to defendants
9 Sean David Morton and Melissa Morton?

10 A. Yes. Again, same basic format. Again, the only
11 differences would be possibly the name of the maker, the
12 amount, who it's paid to, the dates.

13 DEFENDANT SEAN DAVID MORTON: Again, objection, Your
14 Honor. The format for these bonds are everywhere on the
15 Internet. Again, this witness has viewed no original documents
16 that I know of. So, therefore, I object to his testimony
17 altogether.

18 THE COURT: Objection is overruled.

19 BY MS. MAKAREWICZ:

20 Q. Did you also review documents that accompanied this
21 Non-Negotiable Discharging Bond and Indemnity?

22 A. Yes, I did.

23 MS. MAKAREWICZ: Can you turn to page 59 -- 55-9.

24 Q. Did you review this document, sir, Bond Order for
25 Discharging Bond and Indemnity?

1 A. Yes, I did.

2 MS. MAKAREWICZ: Page nine.

3 Q. I'd like to draw to your attention page 13.

4 Did you review this document, sir?

5 A. Yes, I did.

6 Q. Did this document also discuss on page 14 the ESF that
7 we've been referring to in other remittance advices presented
8 to you today?

9 A. Yes, I did. Refer again to the Exchange Stabilization
10 Fund and the Special Drawing Rights, neither of which Mr. -- or
11 the maker, any individual, has access to any of these funds.

12 MS. MAKAREWICZ: May we turn back to the bond, page
13 six, please.

14 Q. In your opinion, Mr. Kerr, is the document entitled
15 "Non-Negotiable and Discharging Bond and Indemnity for Dannion
16 Brinkley" a legitimate financial document?

17 A. No, it is not.

18 Q. Does Mr. Brinkley have the authority to direct the
19 payments of funds from the Treasury Department?

20 A. No, he does not.

21 DEFENDANT SEAN DAVID MORTON: Object again.
22 Speculation, opinion on his part.

23 THE COURT: Overruled.

24 BY MS. MAKAREWICZ:

25 Q. Now, Mr. Kerr, in the preparation for your testimony

1 today, did you review other documents, such as the discharging
2 bonds that we've reviewed for other people?

3 A. Yes, I did.

4 Q. And did you also review document entitled "Bond Order
5 Remittance Advice," and the like, for those particular people?

6 A. Yes, I did.

7 Q. Okay. At this time I'm going to go through as fast as I
8 can, but I'd like to get your opinion as to whether or not the
9 following exhibits are true financial documents or false?

10 A. Yes.

11 MS. MAKAREWICZ: Let's turn to Exhibit 58, page 47.

12 Fifty-nine, page 29.

13 Q. Mr. Kerr, can you state who the payor of this document is.

14 A. The payor of this document is Wade Patterson Gordon.

15 Q. And who is this document made payable to?

16 A. It is made payable to Quicken Loans, Inc. for \$1,200,000.

17 MS. MAKAREWICZ: Page 31, please.

18 THE COURT: Let me just inquire -- and this is not to
19 inject myself into the defense position, but it seems like he's
20 now going to go through -- it sounds from the way you read the
21 indictment -- 15 or 20 of these bonds --

22 MS. MAKAREWICZ: Eighteen --

23 THE COURT: -- 18 instruments.

24 And understanding your objection, Mr. Morton, and
25 Mr. Brody, it seems like the testimony is going to be the same

1 as to all these instruments, that is, his reasons for these
2 succeeding documents will be the same as those he's already
3 given; isn't that correct?

4 MS. MAKAREWICZ: I anticipate that, yes.

5 DEFENDANT SEAN DAVID MORTON: I would object to it as
6 precedential to the -- as prejudicial to the jury, and again,
7 there's no claim upon which a relief can be granted.

8 THE COURT: Well, I understand your objection, and I
9 overrule your objection on that basis.

10 But the point of my inquiry was just to perhaps use
11 this procedure, have the witness look at all these documents,
12 and then, if it's satisfactory, as I think his answer is going
13 to be, that his reasons for his opinion about those instruments
14 is the same as he's already given with similar instruments,
15 with the only difference being the date, the payee and so
16 forth.

17 MR. BRODY: That's my understanding, Your Honor, and
18 I'm certainly happy to have the prosecution ask a request about
19 all of them, and then they can be answered, and we can object
20 whether it can be admitted. That would be fine by me.

21 THE COURT: Yeah. Understanding that this is just
22 because it will be repetitive otherwise. Unless you have a
23 reason to think you want him to go through the testimony as he
24 has for each particular bond. I'm just trying to move it
25 along, but if you're not satisfied with that procedure, don't

1 feel any pressure to tell me no.

2 MR. BRODY: I would have no problem with that
3 procedure, Your Honor.

4 THE COURT: Mr. Morton.

5 DEFENDANT SEAN DAVID MORTON: My objection to this is
6 that, again, this man is not being shown a single original one
7 of these. You know, part of our defense is the fact that none
8 of these bonds and none of these instruments were ever
9 returned, and this man has no firsthand knowledge -- he has no
10 firsthand knowledge of the facts because he hasn't actually
11 seen originals of these, and he doesn't actually know whether
12 or not these have been put on deposit, which is what they were
13 for. So he has no firsthand knowledge of any of this other
14 than just looking at stuff from his perspective and saying, Oh,
15 this is fake or this is fake or that is fake.

16 THE COURT: All right.

17 Ms. Makarewicz, you better go through each one.

18 MS. MAKAREWICZ: Very good, Your Honor.

19 Q. Mr. Kerr, can we go back to Exhibit 58, page 47.

20 Mr. Kerr, you testified earlier that Exhibit 58-47 is
21 the -- a copy of the Franchise Tax Board bond in a million
22 dollars, payable by Mr. Sean Morton; is that correct?

23 A. That's correct.

24 Q. Mr. Kerr, can you take a look at this document and read it
25 over and see if it's the same document that was referred to at

1 58.

2 Mr. Kerr, I also would direct your attention to
3 there, the stack of documents.

4 A. Yes.

5 Q. There should be a copy of 58 in that stack of documents,
6 if that's easier for you to compare it to.

7 A. Yes, exactly.

8 Yes.

9 MS. MAKAREWICZ: May I approach the witness, Your
10 Honor, for the purposes of handing him this document? It is
11 the same as document 58, but it's the original.

12 THE COURT: Yes.

13 MS. MAKAREWICZ: I'm sorry. I missed that.

14 Q. Mr. Kerr, would you take a few moments to examine the
15 original document in front of you, and let me know when you're
16 done.

17 DEFENDANT SEAN DAVID MORTON: Again, objection. The
18 document she handed him, it clearly states that it's void, if
19 it's actually been detached from the rest of the package that
20 goes with it.

21 MS. MAKAREWICZ: May I approach again, Your Honor?

22 THE COURT: I have to rule on the objection.

23 MS. MAKAREWICZ: Pardon me.

24 THE COURT: Overruled.

25 MS. MAKAREWICZ: May I approach the witness again?

1 THE COURT: Yes.

2 BY MS. MAKAREWICZ:

3 Q. I've also handed you documents.

4 Can you examine those as well, Mr. Kerr.

5 A. Yes.

6 Q. Mr. Kerr, the documents that I just handed to you, are
7 they copy -- are they the original documents at page --
8 Exhibit 58?

9 A. Yes, it is. I compared the tracer number, the
10 registration number, the pay to, Franchise Board, the account
11 number, bond order number, the CUSIP number, and the maker, the
12 dates and the amount.

13 Q. Now, Mr. Kerr, you'd been previously provided with copies
14 of that document, correct?

15 A. Correct.

16 Q. In the document you're holding in your hand, is it an
17 original document?

18 A. It is an original document.

19 Q. Has your opinion regarding the legitimacy of that document
20 changed?

21 A. No, it has not. This is a -- handling the original. This
22 is a high quality document that you would anticipate to see a
23 security printed upon. It's a slightly embossed. It has
24 security features built into it. So, yes, it does appear to be
25 original and it's on high quality paper.

1 MS. MAKAREWICZ: May I approach the witness, Your
2 Honor?

3 THE COURT: Yes.

4 BY MS. MAKAREWICZ:

5 Q. Let's turn to the next bond, Exhibit 59, page 29.

6 Again, can you describe this document, sir. Let's
7 hit the payable to, the payors, the amount, and the date.

8 A. Okay.

9 It says it is a "Payment Bond." It's payable to
10 Quicken Loans, Inc. for \$1,200,000, and the maker is Wade
11 Patterson Gordon. It's issued 8/14, maturing 8 of '15.

12 Q. Does Mr. Wade Patterson Gordon have the ability to draw
13 upon funds as enumerated in this non-negotiable payment bond?

14 A. No.

15 DEFENDANT SEAN DAVID MORTON: Your Honor, objection,
16 that's opinion.

17 THE COURT: Overruled.

18 BY MS. MAKAREWICZ:

19 Q. Can I ask you to state at the bottom of the page who
20 notarized this document?

21 MR. BRODY: Objection, Your Honor. The document
22 speaks for itself.

23 THE COURT: Sustained.

24 BY MS. MAKAREWICZ:

25 Q. Mr. Kerr, is this a legitimate financial document?

1 A. No, it is not.

2 DEFENDANT SEAN DAVID MORTON: Objection, opinion,
3 Your Honor.

4 THE COURT: Overruled.

5 MS. MAKAREWICZ: Exhibit 59, page 121.

6 Q. Can you identify this document, sir?

7 A. Yes. It says it's a "Payment Bond." Payable to the
8 Internal Revenue Service for \$250,000. It is -- the
9 payor/maker is Wade Patterson Gordon. It's dated 10 of '14,
10 maturing at 10 of '15. And it's the U.S. Treasury Department is
11 the payor -- payee, excuse me.

12 Q. Is this document notarized?

13 A. Yes, it is notarized.

14 MS. MAKAREWICZ: Exhibit 60-27.

15 Q. What is this document, sir?

16 A. It is a Payment Bond. Payable to PNC Bank for \$500,000.
17 The maker is William Francis Koh, III. It's dated 10 of '14,
18 maturing 10 of '15.

19 Q. Is this a legitimate financial instrument, sir?

20 A. No, it is not.

21 DEFENDANT SEAN DAVID MORTON: Objection, his opinion,
22 not fact, Your Honor.

23 THE COURT: Overruled.

24 BY MS. MAKAREWICZ:

25 Q. Is this document notarized?

1 A. Yes, it is.

2 MS. MAKAREWICZ: Exhibit 61-5.

3 Q. Can you identify this document, sir?

4 A. Yes. Again, it is headed as a "Payment Bond." Payable to
5 PennyMac Financial Services for \$750,000. It is -- the payor
6 is -- the last name is Medel, M-e-d-e-l. It's dated 10 of '14,
7 with a maturity 10 of '15, and the source of payment is U.S.
8 Department of Treasury.

9 Q. Does Mr. Medel, to your knowledge, have the ability to
10 withdraw upon funds or to have funds withdrawn upon from the
11 Department of Treasury?

12 A. No, he does not.

13 Q. Is this document notarized?

14 A. Yes, it is.

15 MS. MAKAREWICZ: Exhibit 62-44.

16 Q. Can you describe this document, sir.

17 A. Again, it's headed up as a "Payment Bond." Payable to
18 JPMorgan Chase Bank, N.A. for \$400,000. Again, the funds
19 coming from the U.S. Department of the Treasury. The maker is
20 Michael Stephen Watson. It's dated 9 of '14, maturing 9 of
21 '15.

22 Q. Does Mr. Watson have the ability to order funds from the
23 Treasury paid out?

24 A. No, he does not.

25 DEFENDANT SEAN DAVID MORTON: Objection, opinion,

1 Your Honor.

2 THE COURT: Overruled.

3 BY MS. MAKAREWICZ:

4 Q. Is this document notarized?

5 A. Yes, it is.

6 MS. MAKAREWICZ: Can we turn to the next page,
7 Exhibit 64-20.

8 Q. Can you describe this document, sir.

9 A. Yes. It's headed up as a "Payment Bond." Payable to Bank
10 of America, N.A. for \$100,000. The source of funds is the U.S.
11 Department of Treasury. The payor/maker is David Noel Martin.
12 It's dated 10 of '14, maturing 10 of 2015, and it is notarized.

13 MS. MAKAREWICZ: Can you turn to page 11 of this
14 document, please.

15 Q. Have you seen something like this before, Mr. Kerr?

16 A. Proof of mailing, yes, I have.

17 Q. And are documents like this, in your experience, do they
18 accompany bond packages?

19 MR. BRODY: Objection, Your Honor, this is improper
20 expert testimony.

21 THE COURT: I don't know what that means, "accompany
22 bond packages."

23 Can you make the question clearer?

24 BY MS. MAKAREWICZ:

25 Q. Mr. Kerr, have you seen the exhibits with respect to David

1 Noel Martin?

2 A. Yes, I have.

3 Q. And the documents that you've seen were the remittance
4 advice, the payment bond, and the bond order?

5 A. Correct.

6 MR. BRODY: Objection, leading.

7 THE COURT: Sustained.

8 MS. MAKAREWICZ: 64-58, please.

9 Q. Can you describe this document.

10 A. It's headed up "Payment Bond." It's payable to American
11 Express Financial Services for the amount of \$50,000. Funds
12 are coming from the U.S. Department of the Treasury. The
13 payor/maker is David Noel Martin. Again, it's dated October of
14 '14, maturing October of '15, and it is notarized.

15 Q. Does Mr. Martin have the ability to direct funds from the
16 U.S. Department of Treasury?

17 A. No.

18 DEFENDANT SEAN DAVID MORTON: Objection, opinion,
19 Your Honor. This witness has no -- no firsthand experience as
20 far as the deposition of what actually happened to these bonds.
21 Whether they were put on deposit or whether or not the funds
22 were actually drawn. All he is doing is just looking at each
23 thing saying, I don't like this, I don't like that. So, once
24 again, I object to this entire testimony.

25 THE COURT: Overruled.

1 MS. MAKAREWICZ: 64-100, please.

2 Q. Can you describe this document, sir.

3 A. It's headed up "Payment Bond." Payable to the Comenity
4 Capital Bank, \$120,000. Funds are coming from the United
5 States Department of Treasury. Payor/maker is David Noel
6 Martin. It is dated 11 of '14, with maturity of 11/15, and it
7 is notarized.

8 Q. Is this a legitimate financial instrument?

9 MS. MAKAREWICZ: No, it is not.

10 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor.
11 Again, opinion.

12 THE COURT: Overruled.

13 DEFENDANT SEAN DAVID MORTON: No knowledge of the
14 deposition --

15 MS. MAKAREWICZ: 65-26, please.

16 Q. Can you describe this document, sir.

17 A. Yes. It's headed up "Payment Bond." Payable to Chevron
18 Federal Credit Union for \$1,500,000. Again, the funds are
19 coming from the United States Department of Treasury. It's
20 payor/maker is Margarita Bianca -- I believe that's Ramos. And
21 it's dated 11 of '14, maturing 11 of '15, and it is notarized.

22 Q. Is this a legitimate financial instrument?

23 A. No, it is not.

24 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor.
25 Opinion.

1 THE COURT: Overruled.

2 MS. MAKAREWICZ: 65-68, please.

3 Q. What is this document, sir?

4 A. It is headed up "Payment Bond." Payable to the ACS
5 Education Services, Inc., \$200,000. Funds are coming from the
6 U.S. Department of Treasury. Payor/maker is Margarita Bianca
7 Ramos. Dated 11 of '14, maturing 11 of '15, and it is
8 notarized.

9 Q. Is this a legitimate financial instrument?

10 A. No.

11 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor.
12 Not only opinion, but he is not reviewing any of the originals.

13 THE COURT: Overruled.

14 MS. MAKAREWICZ: 66-31.

15 Q. Can you describe this document, sir.

16 A. It's headed up "Payment Bond." Payable to JPMorgan Chase
17 Bank, N.A. for \$100,000. Funds are coming from the U.S.
18 Department of Treasury. Payor/maker is Mark Cordell -- I
19 believe it's Urban, U-r-b-a-n. Dated October of '14, maturing
20 October of '15, and it is notarized.

21 Q. Does Mr. Urban have the ability to direct funds from the
22 U.S. Department of Treasury?

23 A. No, he does not.

24 DEFENDANT SEAN DAVID MORTON: Once again, objection,
25 opinion, hearsay.

1 THE COURT: Overruled.

2 MS. MAKAREWICZ: 67-38, please.

3 Q. What is this document, sir?

4 A. It's headed up "Payment Bond." Payable to the Contra
5 Costa County Treasurer for \$1 million. Funds are coming from
6 the United States Department of Treasury. Payor/maker is
7 Steven Hughes -- it's Youse, Y-o-u-s-e. It's dated
8 October '14, and maturity of October '15, and it is notarized.

9 Q. Does Mr. Youse, to your knowledge, have the ability to
10 direct Treasury funds?

11 A. No.

12 DEFENDANT SEAN DAVID MORTON: Objection, opinion,
13 Your Honor, hearsay.

14 THE COURT: Overruled.

15 MS. MAKAREWICZ: 69-13.

16 Q. What is this document, sir?

17 A. It says a "Payment Bond." Payable to the Santander Bank,
18 N.A. for \$1 million. Funds are coming from the U.S. Department
19 of Treasury. Payor/maker is Eric Michael -- I believe it's
20 C-a-i-s [sic]. It's dated March of 2015; maturity of March of
21 '16. It is notarized.

22 Q. Is this a legitimate financial instrument, sir?

23 A. No, it is not.

24 MS. MAKAREWICZ: 68-9.

25 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor,

1 again, opinion, hearsay.

2 THE COURT: Overruled.

3 MS. MAKAREWICZ: 68-9.

4 Q. What is this document, sir?

5 A. It's headed up "Payment Bond." Payable to CitiMortgage
6 for \$1 million. Funds are coming from the U.S. Department of
7 Treasury. Payor/maker is David Ervin -- is that Wurster?
8 Dated January of '15, maturity of January of '16, and it is
9 notarized.

10 Q. To your knowledge, does David Ervin Wurster have the
11 ability to direct Treasury funds?

12 A. No, he does not.

13 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor,
14 opinion, hearsay. Again not standing a claim upon which relief
15 can be granted.

16 THE COURT: Overruled.

17 MS. MAKAREWICZ: 113-10, please.

18 Q. What is this document, sir?

19 A. It's headed up "Payment Bond." Payable to JPMorgan Chase
20 Bank, N.A. for \$1,500,000. The funds are coming from the U.S.
21 Department of Treasury. Payor/maker is Thomas -- I believe
22 it's Cataldo, C-a-t-a-l-d-o. Dated March of '15, maturing
23 March of '16. It is notarized.

24 Q. Is this a legitimate financial instrument?

25 A. No, it is not.

1 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor,
2 again, hearsay. Failure to state a claim upon which a leave
3 can be granted.

4 THE COURT: Overruled.

5 MS. MAKAREWICZ: 116-9, please.

6 Q. What is this document, sir?

7 A. Again, it's headed "Payment Bond." Payable to the
8 Nationstar Mortgage, LLC, \$750,000. Funds are coming from the
9 U.S. Department of Treasury. The payor/maker is Paul John -- I
10 believe it's M-e-s-s-i-c-a[sic]. And it's dated March of '15,
11 maturing March of '16, and it is notarized.

12 Q. Does Mr. Messina have the ability to direct Treasury
13 funds?

14 A. No, he does not.

15 DEFENDANT SEAN DAVID MORTON: Objection, again, Your
16 Honor. No firsthand knowledge of the facts.

17 THE COURT: Overruled.

18 BY MS. MAKAREWICZ:

19 Q. Is this a legitimate financial document?

20 A. No, it is not.

21 DEFENDANT SEAN DAVID MORTON: Again, objection, Your
22 Honor. No firsthand knowledge of the facts.

23 THE COURT: Overruled.

24 MS. MAKAREWICZ: 72-14.

25 Q. What is this document, sir?

1 A. It is titled "Payment Bond." Payable to the Internal
2 Revenue Service, the amount for \$750,000. Funds are coming
3 from the U.S. Department of Treasury. Payor/maker is Marsha
4 Elliott, E-l-l-i-o-t-t. It is dated June of '15, maturing 5 of
5 '16. It is notarized.

6 Q. And you said this was made payable to the Internal Revenue
7 Service?

8 A. I'm sorry. Yes. Made to the Internal Revenue Service.

9 Q. And you know that to be an agency of the United States?

10 A. Internal Revenue Service is a bureau of the United States
11 Treasury, yes.

12 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor.
13 There are facts and records that would challenge that.

14 THE COURT: You can get into that if you wish, but --

15 DEFENDANT SEAN DAVID MORTON: Can I introduce
16 evidence contrary to that?

17 THE COURT: We'll see when you do. I can't make a
18 plea ruling, but your objection is overruled.

19 DEFENDANT SEAN DAVID MORTON: And objection to no
20 firsthand knowledge of the facts.

21 BY MS. MAKAREWICZ:

22 Q. To your knowledge, does Marsha Anne Elliott have the
23 ability to direct Treasury funds?

24 A. No, she does not.

25 Q. Is this a legitimate financial document?

1 A. No, it is not.

2 MS. MAKAREWICZ: 123-15, please.

3 Q. What is this document?

4 A. Again, it's titled "Payment Bond." Payable to the
5 California Franchise Tax Board, amount is \$250,000. Funds are
6 coming from the U.S. Department of Treasury. Payor/maker is
7 Marsha Anne Elliott. It's dated June of '15, maturing 5 of
8 '16. It is notarized.

9 Q. Is this a legitimate financial document?

10 A. No, it is not.

11 MS. MAKAREWICZ: 128-15.

12 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor.
13 Once again, no firsthand knowledge of the facts.

14 THE COURT: Overruled.

15 MS. MAKAREWICZ: 128-15, please.

16 Q. What is this document?

17 A. Titled "Payment Bond." Payable to Nationstar Mortgage,
18 \$1,600,000. And the funds are coming from the U.S. Department
19 of Treasury. Payor/maker is -- I'm not sure how to pronounce
20 that correctly -- the last name looks like G-e-e-l-i-c-k, dash,
21 K-h-a-n, dated June of '15, maturing June of '16, and
22 notarized.

23 Q. Is this a legitimate financial document, sir?

24 A. No, it is not.

25 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor,

1 opinion. No firsthand knowledge of the facts, no viewing of
2 the original.

3 THE COURT: Overruled.

4 MS. MAKAREWICZ: 131-11, please.

5 Q. What is this document, sir?

6 A. This is another instrument entitled "Payment Bond."
7 Payable to Barkleycard USA for \$150,000. Funds are coming from
8 the U.S. Department of Treasury. The payor/maker is David
9 Michael Sipe. Dated 5 of '15, maturing 4 of '16. It is
10 notarized.

11 Q. Does Mr. Sipe, to your knowledge, have the ability to
12 direct Treasury funds?

13 A. No, he does not.

14 Q. Is this a legitimate financial document?

15 A. No, it is not.

16 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor.
17 No firsthand knowledge of the facts. Hearsay.

18 MS. MAKAREWICZ: 119 --

19 THE COURT: You have to give me a chance to rule.

20 MS. MAKAREWICZ: I'm sorry.

21 THE COURT: Overruled.

22 MS. MAKAREWICZ: 119-15.

23 Q. What is this document, sir?

24 A. Document is entitled "Payment Bond." Payable to Navient
25 Student Loans, \$550,000. Funds are coming from the U.S.

1 Department of Treasury. Payor/maker is Barbara Lavender.

2 Dated June 1 of '15, maturing 5/31 of '16. Notarized.

3 Q. Does Ms. Lavender have the ability to direct Treasury
4 funds?

5 A. No, she does not.

6 Q. Is this a legitimate financial document?

7 A. No, it is not.

8 DEFENDANT SEAN DAVID MORTON: Again, objection, Your
9 Honor. No firsthand knowledge of the facts. Hearsay. Not
10 viewing the original document.

11 THE COURT: Overruled.

12 MS. MAKAREWICZ: 134-15.

13 Q. What is this document, sir?

14 A. Document is entitled "Payment Bond." It's payable to Bank
15 of America, N.A., \$50,000. Funds are coming from the U.S.
16 Department of Treasury. Payor/maker is Nancy Joe Zifer. It's
17 dated July of '15, maturing July of '16. It is notarized.

18 Q. Does Ms. Zifer have the ability to direct Treasury funds?

19 A. No, she does not.

20 Q. Is this a legitimate financial document?

21 A. No, it is not.

22 DEFENDANT SEAN DAVID MORTON: Again, objection, Your
23 Honor. No firsthand knowledge of the facts. Failure to state
24 a claim upon which relief can be granted.

25 THE COURT: Overruled.

1 MS. MAKAREWICZ: May I have a moment, Your Honor?

2 THE COURT: Yes.

3 MS. MAKAREWICZ: Thank you, Your Honor.

4 I have no further questions.

5 THE COURT: Okay.

6 Cross-examination. How do you wish to proceed?

7 **CROSS-EXAMINATION**

8 BY DEFENDANT SEAN DAVID MORTON:

9 Q. Good afternoon.

10 A. Good afternoon.

11 Q. What is your name again?

12 A. William Kerr, K-e-r-r.

13 Q. I apologize for what seems like badgering, but am I to
14 understand that the government has only shown you one original
15 document?

16 A. That is correct.

17 Q. That's it, one original document?

18 A. That's correct.

19 Q. So everything else that you've seen here has been copies,
20 .pdf's, you know, of what they claim original documents --
21 actually, they don't claim they're original documents either.

22 Is the government telling you where the copies they
23 made from -- come from?

24 A. No. They said they obtained the copies.

25 Q. Okay.

1 A. I don't know where they obtained them from.

2 Q. Okay. Now, I have -- if it please the judge and the
3 court, I just have some general questions for you since you
4 seem to be so strident on, no, these people can't access this;
5 they can't access that. So a couple of questions for you that
6 seem general but will lead to where we want to go here.

7 Do you work for the federal government?

8 A. No longer.

9 Q. No longer.

10 You used to work for the federal government?

11 A. I work for the office of Comptroller of the Currency,
12 which is the Bureau of Treasury, yes.

13 Q. Okay.

14 But now you don't, you say?

15 A. No.

16 Q. -- you say.

17 A. No.

18 Q. Okay.

19 Are you a U.S. Citizen under the 14th Amendment?

20 A. Yes.

21 Q. Do you have a Social Security number?

22 A. Yes, I do.

23 Q. Does that Social Security number not have an offset bond
24 number on the back of the Social Security card?

25 A. No, it does not.

1 Q. It doesn't?

2 A. No.

3 Q. Do you have the card on you?

4 A. I do.

5 Q. There's no offset bond number on the back of that card?

6 A. No, it is not.

7 Q. Would you produce your Social Security card. I mean, I
8 just want to say that you must have the only Social Security
9 card that doesn't have a bunch of numbers on the back of the
10 card that start with A through F that relate to the Federal
11 Reserve banks.

12 A. It does not.

13 Q. Are you familiar with the bankruptcy of the United States
14 in 1933?

15 A. No, I'm not.

16 Q. You're not?

17 A. No.

18 Q. Okay.

19 Are you familiar with Article I, Section 10, of the
20 U.S. Constitution that says only gold or silver can be made
21 legal tender?

22 A. That is in the Constitution, correct.

23 Q. Are you aware of that?

24 A. It's in the Constitution, yes.

25 Q. So you are aware of that.

1 So do we use gold and silver for legal tender
2 anymore?

3 A. It can be used for legal tender, yes.

4 Q. But I mean are you aware of anything in the Constitution
5 that changed that allowed us to go on paper currency?

6 A. I'm not a student of the Constitution. I don't know.

7 Q. Okay.

8 Is the Federal Reserve bank public or private?

9 A. It's a public creation of the United States government.

10 Q. You're going to stick with that answer?

11 A. It is.

12 Q. Okay.

13 Have you ever seen Ron Paul interview people like Ben
14 Bernanke who says it's a private corporation, and we can do
15 whatever we want?

16 A. I can't say that I've actually seen those, no.

17 Q. Okay.

18 Do you understand what an exaction is, sir?

19 A. No. I'm sorry. I'm not familiar with that term.

20 Q. Do you know how an exact -- well, you're a financial guy.
21 Do you know how an exaction is different when it comes to
22 paying a public exaction, which is something that's handed down
23 by, oh, our buddies in the IRS here or a tax by the government?

24 Do you understand the difference between an exaction
25 and something being paid?

1 A. I've never heard the term "exaction" used.

2 Q. Never?

3 A. No.

4 Q. Okay.

5 Well, the U.S. Supreme Court -- okay.

6 Have you heard of the Supreme Court decision of
7 *Hagar v. Reclamation District* that says, "Legal tender does not
8 apply to involuntary contributions in the nature of taxes or
9 assessments exacted under state laws"?

10 A. No.

11 Q. Have you -- what does a Social Security card entail? Does
12 the Social Security card create an account with the U.S.
13 Treasury?

14 MS. MAKAREWICZ: Objection, relevance, Your Honor.

15 DEFENDANT SEAN DAVID MORTON: The relevance is
16 that --

17 THE COURT: Let me rule.

18 DEFENDANT SEAN DAVID MORTON: I'm sorry.

19 THE COURT: Overruled.

20 BY DEFENDANT SEAN DAVID MORTON:

21 Q. Again, sir, what relationship with the United States
22 government does the Social Security card create with the U.S.
23 government and/or the Commerce Department?

24 A. I do know that there's an account that has Social Security
25 that I paid into for many years, and I'm getting money back

1 from it right now.

2 Q. Okay.

3 So, again, are you -- were you familiar with House
4 Joint Resolution 192 --

5 THE COURT REPORTER: I'm sorry. Could you say that
6 again.

7 BY DEFENDANT SEAN DAVID MORTON:

8 Q. Are you familiar with House Joint Resolution 192 that was
9 then codified as 31 U.S.C. Section 511 8(d) and (2)?

10 A. I have read it in the past, yes.

11 Q. Here's the gist of this, sir:

12 Question: In the documents that you see and read,
13 don't they say all the way through them that if you don't like
14 this for any reason, return them? Doesn't it say exactly in
15 there -- I read in the exhibit, "Acceptance must be absolute
16 and unqualified"? Does it or does it not say that in those
17 documents?

18 A. It does say that in several cases.

19 Q. So the question is if I'm selling you a car and you get in
20 the car and you drive the car around and I say, Well, you have
21 to buy this car, and you get out of the car and say, I don't
22 like the car, am I defrauding you somehow?

23 A. Not that I know of.

24 Q. Has there been an exchange of currency between us for you
25 to drive that car or even look at it as to whether you're going

1 to buy it?

2 A. Not unless you ask me for money.

3 Q. So the question of fraud is, is it a fraud if I offer you
4 something and you don't return it? Okay. Let's say I offer
5 you something and you return it, is that a fraud?

6 A. I don't understand your question.

7 Q. My question is, again, you get in the car, drive the car
8 around. You get out of the car saying, I don't like this car.
9 am I defrauding you somehow? Am I making you buy the car?

10 A. No.

11 Q. In any of the government's -- because here's the mystery,
12 sir, that I want to ask you: In any of the government's
13 arguments, because you don't know what -- do you or do you not
14 know what actually happened to these bonds?

15 A. I don't know exactly what happened to them --

16 Q. So were any of them, to your knowledge, kept by the banks
17 and put on deposit?

18 A. I have no knowledge of that, no.

19 Q. So if I hand you a 1933 rookie year Yankee Clipper Joe
20 DiMaggio baseball card, and let's say we agree that it has a
21 value of -- what would you say? -- \$3 million. You and I know
22 it's worth that. My mom would throw it in the trash. My
23 question is if I give you the card for a debt, as an example,
24 and you don't give it back to me, would that be fraud?

25 A. That would be theft.

1 Q. That would be theft. Thank you very much.

2 THE COURT: There may be a problem with that
3 question.

4 DEFENDANT SEAN DAVID MORTON: Sorry?

5 THE COURT: May be a problem with that question.

6 DEFENDANT SEAN DAVID MORTON: Did I get the year
7 wrong, or the Yankee Clippers --

8 THE COURT: It was 1936.

9 DEFENDANT SEAN DAVID MORTON: I thought I said.
10 Didn't I say 1936?

11 THE COURT: '33.

12 DEFENDANT SEAN DAVID MORTON: I'm so sorry.

13 THE COURT: In 1933 Joe DiMaggio played for the
14 San Francisco Seals.

15 DEFENDANT SEAN DAVID MORTON: Yes.

16 THE COURT: In 1936 he was rookie of the year.

17 DEFENDANT SEAN DAVID MORTON: Thank you so much for
18 that. Thank you. I've been wondering about that.

19 BY DEFENDANT SEAN DAVID MORTON:

20 Q. Another thing that I can say is that if I gave you a No. 1
21 Superman Action Comics that would be worth 3 or \$4 million, if
22 you knew what it was, it would be worth something to you,
23 right?

24 A. Yes.

25 Q. But if I gave it to the judge, and he didn't like comics,

1 it's just colored paper to him, it's worthless to him --
2 right -- or my mom would throw it away, yes?

3 A. Possibly.

4 Q. So what you're saying, my asking you, isn't acceptance
5 part of the bargain of anything? In any financial transaction,
6 isn't acceptance part of the bargain?

7 A. It can be, yes.

8 Q. It can be or it is? If you keep it -- so my question
9 becomes, is it lawful and legal for these banks -- because
10 here's the problem: Is it lawful and legal for these banks to
11 take monetary instruments, the Joe DiMaggio baseball card, then
12 say, We don't want this. We don't like it. We're not going to
13 honor it. But here, we're going to send you back -- we're
14 going to give you this copy of the baseball card, help
15 yourself.

16 Is that legal?

17 A. I don't think that is a comparison to what we're talking
18 about here.

19 Q. How isn't it a comparison? These bonds, sir -- let me ask
20 you. These bonds, or any bonds, are they or are they not to
21 raise capital? Are they or are they not just to be placed on
22 deposit by a bank? Not money, mind you, not Federal Reserve
23 notes -- they're all traded by a private agency, whether you
24 think so or not -- that are these or not put on deposit to
25 raise capital against? Isn't that the purpose of a bond?

1 A. Bonds are not put on deposit in a bank.

2 Q. That's your answer?

3 A. Yeah.

4 Q. What does the bank do with them?

5 A. You said raising capital. The bank would have to issue a
6 bond.

7 Q. Okay.

8 But when bank issues a bond, what do they do with it?
9 They use it to raise -- what do they use it for?

10 A. Use it to raise capital, money, dollars.

11 Q. Thank you. Thank you.

12 So if something comes with a letter that asks for a
13 legal opinion from your legal department, a Memorandum of
14 Understanding, then not only in the bond itself -- and then the
15 paperwork comes with it that says, again, this must be
16 accepted, absolute and unqualified.

17 Then, on top of that, it comes with three notices
18 after that. It said a Notice of Default. Hey, did you guys
19 get the bond, the monetary instrument? Are you going to do
20 anything with it?

21 Then another one comes up -- by the way, sent by a
22 notary, who is an officer of the court and an agent of the
23 Secretary of State who then -- an official, a legal official,
24 sends you another notice that says, Notice of Fault,
25 Opportunity to Cure. You guys accepted the Joe DiMaggio,

1 Superman, one baseball card.

2 And the very last one says, Okay. I guess we're
3 done. You haven't responded to anything; therefore, you've
4 accepted the paper for whatever it is.

5 Do you or do you -- does that sound like fraud to
6 you?

7 A. You lost me.

8 Q. How did I lose you? Did I lose you on the presentation?

9 A. I don't understand what you're asking me.

10 Q. What I'm asking you, is that if you present a monetary
11 instrument to a bank, and you give them four notices to return
12 it, and they don't, don't you think that qualifies as
13 acceptance? Don't you think they've accepted the baseball
14 card?

15 A. If the legitimate -- the financial instrument was
16 presented, and it was a legitimate financial instrument, and
17 they didn't return it, yes. If it's not a legitimate financial
18 instrument, they have no reason to return it.

19 Q. And yet the U.S. Treasury has a warning -- does the U.S.
20 Treasury on its website have a warning called A199, and as you,
21 as a member of the Office of the Comptroller of the Currency
22 would know, doesn't it say on the Treasury website and the
23 Secret Service website -- and, by the way, the Secret Service
24 is the proper agency to handle this stuff, not the Internal
25 Revenue Service, or are they?

1 Doesn't it say if you get a bond, no matter what it
2 is, no matter if it's written on a piece of toilet paper, it
3 must be dishonored and returned.

4 Are you aware of that warning on their website?

5 A. No.

6 Q. Have you known of any of these banks that have dishonored
7 and returned this -- I'm not sure you would know that -- but
8 isn't part of it dishonoring the bond and sending it back?

9 A. I don't know if the banks have or not.

10 Q. Okay.

11 So if people issuing the bond issue the bond and it's
12 not returned, how are they supposed to know if it's good or
13 bad? How are they supposed to know that the bank hasn't
14 already -- I mean, it goes towards willful intent to
15 culpability. If nobody sends these things back, how is anybody
16 supposed to know that they haven't put it on deposit, that
17 they're using it to draw capital against, and that this, once
18 again, not paid, because nothing can be paid in a banking
19 system, that this debt has not been set-off, settled and
20 discharged?

21 A. You lost me again.

22 Q. Again, if you send a bond to a bank, and they don't
23 dishonor it and return it, as is required by the U.S. Treasury,
24 Secret Service website, how are the senders of that bond
25 supposed to know that the bond is no good, or a fake financial

1 instrument?

2 A. I don't know. That statement on the Department of
3 Treasury website -- I don't know what it says.

4 Q. Okay.

5 A. I don't know what it says.

6 Q. So you're not -- but you worked as an -- as a member of
7 the Office of the Comptroller of the Currency. Didn't people
8 complain to you about anything? Because if you send a bond in,
9 and the bank doesn't return it, don't you contact the OCC and
10 say, Hey, this is financial fraud. I sent something to a bank,
11 they're not returning? You're supposed to be enforcement
12 agency for that.

13 How many years did you work for the OCC, sir?

14 A. Thirty-nine.

15 Q. Thirty-nine years.

16 So you're not familiar with what happens when you
17 send an instrument to a bank and they don't return it?

18 A. They do what?

19 Q. What happens when you send an instrument to a bank and
20 they do not return it, is my question. You worked for the OCC
21 33 years, yes?

22 A. Thirty-nine.

23 Q. Thirty-nine years. I'm sorry. But you don't know that?

24 A. If it is a legitimate financial instrument and it is sent
25 there, it will be processed. If it is not legitimate, then

1 they don't have any right or a reason to return it, I would
2 keep it, if I was there, and I would turn it over to the proper
3 authorities.

4 Q. Okay.

5 So not return it even though the bond says, okay,
6 look, again, it's the car, and you don't like the car, please
7 get out. So you're saying that the -- you're saying you'd turn
8 it over to proper authorities because -- again, does the
9 bond -- if I hand you a bond, does it have any value between
10 you and I?

11 A. It would depend if there was a source behind the bond to
12 pay the funds.

13 Q. Right.

14 A. And then you had the authority to issue that bond on that
15 account and those funds. If you don't, then you're asking --
16 you're actually perpetrating fraud on me.

17 Q. But if I hand it to you, and you're a bank, and it has
18 just like a mortgage or whatever, then, again, I've stated this
19 over and over -- I will ask the question, sorry.

20 If you hand somebody a monetary instrument which is
21 worthless to you and I, but if the monetary instrument is
22 handed to a bank, doesn't the bank -- let's say I'm a
23 legitimate issuer of this, doesn't the bank have the ability to
24 then cash out that bond, or put it on deposit so it can raise
25 capital?

1 A. Again, the bonds -- if you're talking about raising
2 capital, the bank itself has to issue the bonds. Somebody is
3 not going to give them a bond to raise capital. You're mixing
4 situations here.

5 Q. But in the 30 year -- how many types of different bonds
6 are there, sir, in your experience?

7 A. Pardon?

8 Q. How many different types of bonds are there in your
9 experience?

10 A. Oh. There are bonds issued by local municipalities, State
11 of California, U.S. government, corporations, banks, everybody
12 issues bonds.

13 Q. And what are any of those bonds based on? Aren't they
14 based on when you come in and sign a document for a mortgage,
15 how does the bank draw that money into existence? Isn't it
16 based on your signature of sweat equity? Don't they just
17 create that money out of nothing because we have a fractional
18 reserve system?

19 A. No, it's not created out of nowhere.

20 Q. Really? Where's it come from where?

21 A. It comes from the deposits other people have made in the
22 institution.

23 Q. Which are based on what?

24 A. It's re-lent out to the individual.

25 Q. Which are based on privately printed Federal Reserve

1 notes? Because it's not gold or silver. Article 1,
2 Section 10. So what is any money based on, sir?

3 A. Based on the full faith and credit of the United States
4 government.

5 Q. Ah. Okay. But, I'm sorry, you left out a key phrase. Is
6 it or is it not based on the full faith and credit of the
7 people of the United States?

8 A. Absolutely. People are the government of the United
9 States.

10 Q. How many people are in here, sir? I only see two. I see
11 my wife and myself. We are the only people, and then we have
12 the sovereign people of California. All these other people are
13 actors. They're acting as IRS agent; he's acting as judge;
14 he's acting as clerk. So all these other people are actors now
15 in the play. The only real man and woman here being harmed are
16 myself and my wife.

17 So my question to you again, sir, is what is this all
18 based on? We have a \$20 trillion debt. What is it based on,
19 the \$20 trillion debt? Who's it borrowed against, and who is
20 it owed to?

21 A. It's owed to many, many people, including myself.

22 Q. The \$22 trillion debt is owed to who? Who do we owe it
23 to?

24 A. It's owed to many people around the world.

25 Q. Okay. Not the Federal Reserve Bank?

1 A. Might be some of the Federal Reserve Bank too.

2 Q. Okay. And the people like are full faith and credit. If
3 the people of the full faith and credit, don't you think the
4 people should get something in exchange for that, like being
5 able to set off debt?

6 A. I don't understand that question. What? Against what?

7 Q. Okay. That's my question, isn't it? My question is
8 what's the \$20 trillion debt set off against? Is it set off
9 against the full faith and credit of people in the United
10 States?

11 When I sent my birth certificate in to the State
12 Department to get it certified, it says right on the front,
13 "with the full faith and credit of the people of the United
14 States."

15 So my question to you is again: It's all made up,
16 isn't it? It's just -- there isn't really any money in the
17 public because it's all privately printed currency by the
18 Federal Reserve, isn't it?

19 A. No.

20 Q. No. Okay. What's it based on again? Sorry to badger
21 you, sir, but this is important. Our lives are at stake here;
22 we're facing 1300 years of jail.

23 MS. MAKAREWICZ: Objection. Move to strike, Your
24 Honor.

25 THE COURT: Stricken.

1 BY DEFENDANT SEAN DAVID MORTON:

2 Q. Okay. I'll ask you again. Once again, the national debt
3 is based on you don't know. I asked you if you worked for the
4 U.S. government. Once again, are you a franchisee of the U.S.
5 government?

6 A. No.

7 Q. You've never filled out a W-4 franchise tax form? Is that
8 what makes you a franchisee of the federal government?

9 Have you filled out a W-4 franchise tax form, sir?

10 A. Not that I know of.

11 Q. Never? You worked for the OCC and you never -- you don't
12 know what a W-4 is?

13 A. Is that your withholding? W-2 is withholding, sorry.
14 W-4, I don't know.

15 Q. Pretty incredible.

16 So you're not familiar with the bankruptcy of the
17 United States in 1933. We went belly up.

18 A. No.

19 Q. Are you familiar when we went off the gold standard, and
20 gold and silver no longer became money?

21 A. I believe that was somewhere around 1933.

22 Q. Okay. Around 1930 -- in the '30s, did they or did they
23 not confiscate all gold and silver?

24 A. Yes, they did.

25 Q. So what then became the remedy of debt, sir? What then

1 became -- how did the people of the United States, the full
2 faith and credit, the people of the United States, what becomes
3 the remedy for them? What did they get in exchange for their
4 credit being used? Nothing?

5 A. Can you give me an example?

6 Q. I can't really, because you're the financial expert. But
7 you don't seem to know how this whole other system works, do
8 you?

9 Sorry. That is a badgering question. I withdraw
10 that question.

11 Is it, once again -- well, it seems like this is
12 pointless.

13 Is legal tender for the discharge of debt still
14 required after 1977?

15 A. I believe our currency says "legal debtor."

16 Q. Okay.

17 And, again, the currency is printed by who?

18 A. It's printed by the U.S. government.

19 Q. Really? Does it say U.S. government anywhere on a piece
20 of currency? I'll get one out now.

21 A. I think it's a Federal Reserve note.

22 Q. Okay.

23 So is the Federal Reserve, again, the United States
24 government?

25 A. Yes, it is.

1 Q. Okay.

2 So here's what's weird: What does it say on the top
3 of the bill? It says -- I know you can't see it from there,
4 but you probably know -- would you agree with me it says
5 "Federal Reserve Note" on the front of it?

6 A. Probably does, yes.

7 Q. Okay.

8 Would you agree that this is some kind of Federal
9 Reserve bank that -- San Francisco, that's an L. A through L,
10 which is the 12 Federal Reserve banks that divide up the
11 country?

12 A. Okay.

13 Q. Okay.

14 Here's what's weird, though: I take out a 20. It's
15 kind of interesting that all the Federal Reserve notes are
16 colored the same way as Monopoly money. The five is pink, and
17 then it's all the same color.

18 But this here, if I could -- if I may, if I could
19 show the jury, says "Federal Reserve Bank" on it right there,
20 it has a stamp, says "Federal Reserve Bank." Would you like to
21 see it? You don't get to keep it, but you can see it. This
22 one here has a bank, an actual bank on it, which means that
23 this is printed entirely by the Federal Reserve, yes, sir?

24 A. It's a Federal Reserve Note.

25 Q. That's a Federal Reserve bank, right there.

1 A. Says "United States of America."

2 Q. Yeah, but it says "Federal Reserve Note" on the top of it,
3 yes?

4 A. Yes.

5 Q. Okay.

6 And this one here actually has a letter for a bank on
7 it, doesn't it?

8 A. Yeah, a seal with an L.

9 Q. Right, seal with an L.

10 This is the only legal money anymore, in my opinion,
11 but that's just me.

12 So, again, the ultimate question becomes here, sir,
13 that you don't know, with the exception of the single bond that
14 was sent back by Contra Costa County, where I believe they sent
15 it back and said, We don't know what to do with this, not that
16 it was illegal or unlawful, you don't know the deposition of
17 any of the bonds that you have been shown; you don't know the
18 deposition of whether or not they were kept by the banks.

19 MS. MAKAREWICZ: Objection, asked and answered, Your
20 Honor.

21 THE COURT: Overruled.

22 BY DEFENDANT SEAN DAVID MORTON:

23 Q. You get to answer that question.

24 You don't know what happened to any of these bonds.

25 A. No, I do know, other than the first exhibit, which was

1 submitted, and it was returned.

2 Q. That was the Contra Costa County bond.

3 A. No, that was the item that looked like a check, a standard
4 check. It was sent in.

5 Q. Oh, good. Thank you for reminding me of that.

6 So the question about that -- does it say "check"
7 anywhere on it?

8 A. No.

9 Q. Do you know the difference between a check and a coupon?

10 A. Yeah.

11 Q. Now, does somebody have to be, in your opinion, somebody
12 have to be crazy or completely outlandish to send a \$5 million
13 check to the government?

14 MS. MAKAREWICZ: Objection, Your Honor,
15 argumentative, relevance.

16 THE COURT: Sustained.

17 BY DEFENDANT SEAN DAVID MORTON:

18 Q. Again, doesn't somebody have to be completely out of their
19 mind to send a \$5 million check to the government?

20 MS. MAKAREWICZ: Objection.

21 THE COURT: Sustained.

22 BY DEFENDANT SEAN DAVID MORTON:

23 Q. Again, did it say "check" anywhere on it, anywhere on the
24 coupon?

25 MS. MAKAREWICZ: Objection, asked and answered.

1 THE COURT: Overruled.

2 THE WITNESS: Do not believe it said "check" on
3 there, no.

4 BY DEFENDANT SEAN DAVID MORTON:

5 Q. Did or it did not say "Void" all across it?

6 A. It did, yes.

7 Q. Okay. Thank you.

8 Now, my question is: There was a stamp on it that
9 certainly wasn't put on by anybody else, but don't you think it
10 was weird there was an actual stamp from the U.S. Treasury on
11 the coupon?

12 MS. MAKAREWICZ: Objection, Your Honor, relevance.

13 THE COURT: Sustained.

14 BY DEFENDANT SEAN DAVID MORTON:

15 Q. It's relevant because it looks like somebody at the
16 U.S. Treasury stamped the coupon for something. So, again, was
17 there an original that was sent back of that coupon?

18 MS. MAKAREWICZ: Objection, Your Honor, asked and
19 answered.

20 THE COURT: Sustained.

21 BY DEFENDANT SEAN DAVID MORTON:

22 Q. Again, did they show you an original of this coupon?

23 MS. MAKAREWICZ: Objection.

24 THE COURT: Sustained.

25 ///

1 BY DEFENDANT SEAN DAVID MORTON:

2 Q. Answer the question, please.

3 THE COURT: I sustained the objection.

4 MS. MAKAREWICZ: Objection.

5 THE WITNESS: I'm sorry?

6 DEFENDANT SEAN DAVID MORTON: Can he answer the
7 question or not, Judge?

8 THE COURT: No.

9 DEFENDANT SEAN DAVID MORTON: Okay. All right.

10 Q. So the coupon said "check" nowhere on it, yes?

11 MS. MAKAREWICZ: Objection.

12 DEFENDANT SEAN DAVID MORTON: Sorry. I'm just
13 trying --

14 THE COURT: Sustained.

15 BY DEFENDANT SEAN DAVID MORTON:

16 Q. Okay. I'm sorry. I'm confused.

17 Did sending the coupon to the United States Treasury
18 benefit the person that sent it at all?

19 MS. MAKAREWICZ: Objection, Your Honor.

20 THE COURT: What ground?

21 MS. MAKAREWICZ: Relevance and --

22 THE COURT: Sustained.

23 DEFENDANT SEAN DAVID MORTON: Again, can I still ask
24 my question?

25 THE COURT: No.

1 DEFENDANT SEAN DAVID MORTON: I can't ask the
2 question.

3 Q. Was there any direct benefit to Sean Morton that sent in
4 the coupon in your opinion?

5 MS. MAKAREWICZ: Objection.

6 THE COURT: Sustained.

7 BY DEFENDANT SEAN DAVID MORTON:

8 Q. Okay.

9 Once again, let's recap, please. So the credit of
10 the people of the United States of America is what floats the
11 debt?

12 MS. MAKAREWICZ: Objection, asked and answered.

13 THE COURT: Sustained.

14 BY DEFENDANT SEAN DAVID MORTON:

15 Q. All right. Last, but not least, are the private,
16 unincorporated -- are the private, unincorporated persons whose
17 private assets and property are being used to collateralize --
18 collateralize the obligations of the United States since 1933,
19 collectively and nationally, constituting a legal class of
20 persons, being a national bank or a national banking
21 association, with the right to issue such notes against the
22 obligation of the United States, for equity interest recovery
23 due and accrued to these principal and sureties of the United
24 States, being the people, backing the obligations of U.S.
25 currency and credit as a means for legal tender discharge, yes

1 or no?

2 MS. MAKAREWICZ: Objection.

3 THE COURT: Sustained.

4 BY DEFENDANT SEAN DAVID MORTON:

5 Q. Okay.

6 Are bonds issued under surety bonds and bills of
7 exchange lawful to discharge debt under Public Law 7310, 48, 48
8 Statute 112, IIJR 192 of 1933, Title 31 U.S.C. 3123, and by
9 treaty, in this case, the United Nations Convention on
10 International Bills of Exchange -- and you should know this
11 working for the Office of the Comptroller of the Currency --
12 and notes under USATROL(phonetic) and the Universal Postal Unit
13 headquartered in Bern, cannot surety bonds be issued by the
14 people that are the creditors ensuring the debt to the United
15 States of America?

16 MS. MAKAREWICZ: Objection.

17 THE COURT: Sustained.

18 DEFENDANT SEAN DAVID MORTON: All right. I'll --
19 okay.

20 Q. Now, I asked you again -- oh, by the way, so the one
21 original -- the original note that you saw was for the
22 California Franchise Tax Board, yes, or was it for Contra Costa
23 County, or was it for the California Franchise Tax Board?

24 A. I would have to look at it again.

25 Q. The one original piece of the -- the only original piece

1 of evidence they presented that entire tirade was the original
2 bond for the California Franchise Tax Board, yes, sir?

3 A. Yes, I believe it was, yes. Yes.

4 Q. Okay.

5 Was the CTFB a public organization, a government
6 organization?

7 MS. MAKAREWICZ: Objection.

8 THE COURT: Sustained.

9 BY DEFENDANT SEAN DAVID MORTON:

10 Q. Was that for a public exaction, sir?

11 MS. MAKAREWICZ: Objection.

12 THE COURT: Sustained.

13 DEFENDANT SEAN DAVID MORTON: Okay, Your Honor. You
14 want to take this?

15 Thank you very much, sir.

16 THE WITNESS: Yes, sir.

17 THE COURT: Mr. Brody, do you wish to ask some
18 questions?

19 MR. BRODY: Yes, briefly. Thank you, Your Honor.

20 **CROSS-EXAMINATION**

21 BY MR. BRODY:

22 Q. Good afternoon, Mr. Kerr.

23 A. Good afternoon.

24 Q. Can you just bear with me for one moment here. I want to
25 see if I can put something on the screen. Okay.

1 That's what's already been admitted as Government's
2 Exhibit 14. You're familiar with that exhibit, right?

3 A. Yes, I am.

4 Q. You said there was some microprint on this document,
5 right?

6 A. Yes. The instrument itself says that.

7 Q. And that's up in the top there?

8 A. Yes. Says along the top.

9 Q. Okay.

10 And that, I think you said, is one of the kind of
11 hallmarks of a legitimate instrument?

12 A. Yes. Because if you see that, it's on quality paper. It
13 has security features helping to prevent fraudulent use of it.

14 Q. And by "security features," you mean what exactly?

15 A. Well, like the microimprinting, that won't copy. And if
16 you do copy some things like this, it's a copy, it cannot say
17 "Void."

18 Q. Okay.

19 So are these measures to help prevent people from
20 printing up things like this?

21 A. Not necessarily printing up, no.

22 Q. It wouldn't make it any more difficult to print this?

23 A. No, because you can buy this stock in Staples, Home
24 Depot -- or a home office supply shop that has all the security
25 features built into the paper.

1 Q. Okay.

2 And so where it says "Void" there, do we suspect that
3 was on the original document?

4 A. That would have been built into the original document,
5 yes.

6 Q. Would it have been visible in the original document?

7 A. It should not have been, no.

8 Q. Not if it was the proper security paper?

9 A. Correct.

10 Q. Now, as to this particular document -- I'm sorry.

11 Did you see the original of this document? I'm sorry
12 to ask.

13 A. No, I did not.

14 Q. Okay.

15 So we don't know if the original you could actually
16 see the word "Void," for example?

17 A. Well, if it's standard security paper, then you would not
18 see it. I can't state specifically on this document whether
19 you could or not.

20 Q. Okay. Thank you.

21 Turning your attention now very briefly to
22 Government's Exhibit 17.

23 That's one of the documents -- another document that
24 you said resembled in some ways a check, correct?

25 A. That's correct.

1 Q. And you said that the account number on there is the
2 account number of the Federal Reserve?

3 A. Yes.

4 Q. Okay.

5 And I think you said the Federal Reserve in Atlanta?

6 A. That is correct, yes.

7 Q. Are there multiple Federal Reserve accounts or something?

8 A. Yes. There's accounts at -- every Federal Reserve bank
9 has its own specific routing number. So this is the one for
10 Atlanta.

11 Q. Okay.

12 And did you know that just because of your experience
13 or did you look that up?

14 A. That's one of the things I do, when I look at documents
15 and have the routing number, I look up the routing number, and
16 that's how I know that that is the routing number for Atlanta.

17 Q. So you looked it up in this particular case?

18 A. Yes.

19 Q. Okay.

20 Now, you said, I think, that this -- I guess let's
21 just say check for the time being, for lack of a better word
22 is --

23 DEFENDANT SEAN DAVID MORTON: Coupon.

24 BY MR. BRODY:

25 Q. -- from the Federal Reserve to the IRS; is that right?

1 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor.
2 I'm sorry. It's not a check. It doesn't say "check" on it
3 anywhere.

4 MS. MAKAREWICZ: Objection, Your Honor. The witness
5 has not --

6 THE COURT: You have to let me rule on objections.
7 The document should be referred to by its heading.

8 MR. BRODY: Certainly, Your Honor.

9 THE COURT: Whatever the heading is.

10 MR. BRODY: Certainly, or perhaps by the exhibit
11 number?

12 THE COURT: Yes.

13 MR. BRODY: Okay.

14 MS. MAKAREWICZ: Objection, Your Honor.

15 THE COURT: Overruled.

16 BY MR. BRODY:

17 Q. So. Okay. I'm sorry. Let me back up for a moment, then.

18 Is this document, this Coupon for Setoff, Settlement
19 and Closure, does that appear to you to be a check from one
20 party to another?

21 A. Yes.

22 Q. And who it is from and who is it to?

23 A. According to what I'm seeing on here, it's Melissa Ann
24 Thompson Morton, and it has an address, it has the routing
25 number and an account number; and then the routing numbers and

1 account numbers are encoded at the bottom.

2 Q. And who is it made out to? Like who would be cashing this
3 thing?

4 A. It would be made payable to Department of Treasury,
5 Internal Revenue Service.

6 Q. So, in theory, the Department of Treasury would cash it
7 and the money would come out of the Federal Reserve --

8 A. Yes.

9 Q. -- if this were an actual check?

10 A. If it was legitimate, and there was an account there that
11 had funds in it, then yes.

12 Q. But the account doesn't exist, right?

13 A. That's correct.

14 Q. So there is no way the IRS could actually cash this check?

15 A. That's correct.

16 DEFENDANT SEAN DAVID MORTON: Objection, once again,
17 there is no firsthand knowledge.

18 BY MR. BRODY:

19 Q. I also referred to it as a "check."

20 There is no way the IRS could cash this document.

21 A. That is correct.

22 Q. Okay.

23 Let me just direct you very briefly to Government's
24 Exhibit 21, page four.

25 This is also one of the documents you analyzed for

1 the government, correct?

2 A. Yes.

3 Q. And we saw there a reference to the Exchange Stabilization
4 Fund?

5 A. Yes.

6 Q. And to the ICC?

7 A. Yes.

8 Q. And what is the ICC?

9 A. The ICC is -- that's the abbreviation for the
10 International Chamber of Commerce. They are an organization,
11 private organization, headquartered in, I believe, Paris. And
12 they issue guidelines for the -- basically creation of
13 financial instruments. In other words, if you follow their
14 guidelines in creating them, a paragraph with certain wording
15 has an accepted meaning. They have no regularly authority.
16 Everything that they do is strictly voluntarily.

17 Q. And you know that as result of your many years of
18 expertise, correct?

19 A. Yes. I dealt with them extensively.

20 Q. And you would say that is not the sort of knowledge that
21 the average layman has, correct?

22 A. Average layman, no.

23 Q. Okay.

24 Let me skip forward to page 27 of this same document.
25 There are references in this document to the UCC, correct?

1 A. I believe, yes. UCC contract number.

2 Q. What is a UCC contract number?

3 A. I really have no idea what a UCC contract number is. A
4 UCC is Uniform Commercial Code, which is a standard, again,
5 it's a set of guidelines to issue contracts and other documents
6 and financial transactions.

7 Q. And is that something that you would typically see on a
8 bond?

9 A. I would say no.

10 Q. Okay.

11 You also referenced the CUSIP number.

12 A. Correct.

13 Q. And that is the sort of thing that would appear on a bond
14 typically?

15 A. If it was a legitimate institution and -- excuse me -- a
16 legitimate bond issued by a source, so someone who has sources
17 to pay, they could apply for a CUSIP number from the
18 organization.

19 Q. And did you attempt to look up the CUSIP number on this
20 document?

21 A. I did.

22 Q. And you found nothing, correct?

23 A. It came back as not a valid number.

24 Q. Okay.

25 So, in total, though, this document does have a fair

1 number of features that make it appear somewhat legitimate,
2 correct?

3 A. Yes.

4 Q. So to the average layman might look at a document and
5 think that's a real instrument?

6 A. Yes.

7 Q. Okay.

8 But when you, an expert, analyze it, and look closely
9 at the particular numbers, it's quite clear that it's not, is
10 that what you're saying?

11 A. Myself and most people involved with financial would look
12 at it and come to the same conclusion.

13 DEFENDANT SEAN DAVID MORTON: Objection, speculation,
14 other people's opinions.

15 THE COURT: Overruled.

16 MR. BRODY: All right. Thank you, Mr. Kerr.

17 That's all the questions I have. Thank you.

18 THE COURT: Thank you, sir. Thank you, Mr. Kerr.
19 You may step down.

20 THE WITNESS: Thank you.

21 THE COURT: Call the next witness.

22 MS. MAKAREWICZ: The government calls Sofivan Vargas
23 to the stand, please.

24 DEFENDANT SEAN DAVID MORTON: Your Honor, before this
25 witness, would you mind if the court takes a quick break?

1 THE COURT: All right.

2 DEFENDANT SEAN DAVID MORTON: Thank you.

3 THE COURT: We'll take an early afternoon recess for
4 ten minutes or so.

5 (Recess)

6 MS. MAKAREWICZ: The government calls Sofivan Vargas
7 to the stand, please.

8 THE CLERK: Please stand behind the court reporter.
9 Please raise your right hand.

10 (Witness sworn.)

11 THE WITNESS: I do.

12 THE CLERK: Please be seated.
13 Please state your full name and spell it for the
14 record.

15 THE WITNESS: My name is Sofivan Vargas,
16 S-o-f-i-v-a-n, V-a-r-g-a-s.

17 **SOFIVAN VARGAS; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:**

18 **DIRECT EXAMINATION**

19 BY MS. MAKAREWICZ:

20 Q. Good afternoon, Ms. Vargas.

21 Where do you work?

22 A. I work for Chase Bank.

23 Q. What is your job title?

24 A. Branch manager.

25 Q. How long have you been a branch manager?

1 A. Twenty-four years today.

2 Q. What are your job duties?

3 A. I manage a branch in downtown Los Angeles.

4 Q. What is the relationship between Chase and Washington
5 Mutual, or WAMU?

6 A. Chase that purchased Washington Mutual.

7 Q. When?

8 A. September 25th, 2008.

9 Q. Were you an employee of Washington Mutual at that date of
10 acquisition?

11 A. Yes.

12 Q. When Chase acquired Washington Mutual, did it take control
13 of Washington Mutual's books and records relating to customers'
14 accounts?

15 A. Yes.

16 Q. How do you know this?

17 A. When there's an acquisition, you take over everything.

18 Q. Was Chase subpoenaed for documents relating to Washington
19 Mutual's accounts for defendants?

20 MR. BRODY: Objection, Your Honor, foundation as to
21 the statement regarding Chase taking over Washington Mutual's
22 clients.

23 THE COURT: I'll sustain that objection on that one
24 aspect of the foundation.

25 You haven't completed your foundation.

1 MS. MAKAREWICZ: I haven't.

2 THE COURT: But that may be something you have to ask
3 her the questions about.

4 BY MS. MAKAREWICZ:

5 Q. Were you an employee of Washington Mutual on the date of
6 Chase's acquisition?

7 A. Yes.

8 Q. Can you describe what happened with records being
9 transferred from Washington Mutual to Chase?

10 A. Yes. When Chase purchased Washington Mutual, all records
11 that were -- all records that Washington Mutual had were
12 transferred to Chase.

13 Q. Was this the first time you had been involved as a branch
14 manager regarding the bank's acquisition?

15 A. No. I -- there were three acquisitions in my 24 years in
16 banking.

17 Q. So you're familiar about banks changing names, banks
18 changing ownership?

19 A. Absolutely, yes.

20 Q. Thank you.

21 Was Chase subpoenaed for documents relating to
22 Washington Mutual accounts for the defendants?

23 A. Yes.

24 Q. Did Chase respond?

25 A. Yes.

1 Q. In relation to this case, were you asked to examine the
2 records of Washington Mutual accounts with respect to the
3 defendants?

4 A. Yes.

5 Q. Were they found on Chase's records database?

6 A. Yes.

7 Q. Are you familiar with this system?

8 A. Yes.

9 Q. How familiar?

10 A. Extremely familiar.

11 Q. Ms. Vargas, in front -- or to your left is a series of
12 binders. Please find volume I and direct your attention to
13 Exhibit 23, and just let me know when you're ready.

14 Volume I.

15 A. Binder one through five?

16 Q. Yes.

17 A. Yes.

18 Q. Can you turn to Exhibit 23 and just let me know when
19 you're ready to proceed.

20 A. All righty.

21 Q. Prior to today, have you seen this document?

22 A. Yes.

23 Q. What is this?

24 A. This is a bank signature card.

25 Q. For whom?

1 A. For Melissa Morton and Sean D. Morton.

2 Q. Dated when?

3 A. Dated 6/24/2008.

4 Q. Was this document kept in the ordinary course of
5 Washington Mutual's business?

6 A. Yes.

7 Q. And retrieved from the records of Washington Mutual held
8 by Chase?

9 A. Yeah.

10 Q. And is it the standard practice, from your knowledge, of
11 Washington Mutual to record these documents at or near the time
12 of the underlying transaction?

13 A. Yes.

14 MS. MAKAREWICZ: I'd like to move this Exhibit 1-23
15 into evidence, Your Honor.

16 THE COURT: Received.

17 (Government's Exhibit 1-23 received in evidence.)

18 MS. MAKAREWICZ: May I publish?

19 THE COURT: Yes.

20 BY MS. MAKAREWICZ:

21 Q. Can I direct your attention, and can you point out,
22 annotating on the screen, what the last four digits of this
23 account number are?

24 A. 3324.

25 Q. Is this a joint account or a singular account?

1 A. This is a joint account.

2 Q. Can you identify where on this document Melissa Morton's
3 employer is?

4 Can you identify on this document what type of tax
5 I.D. is listed for Sean David Morton.

6 A. (Witness complies.)

7 Q. Can you out loud read it, please.

8 A. Yes. Under tax I.D. it reads "Nonresident Alien."

9 Q. And the employer for Melissa Morton?

10 A. Heaven & Earth, LLC.

11 Q. Can you turn to document 24.

12 Ms. Vargas, have you seen these documents before?

13 A. Yes.

14 Q. What are they?

15 A. This is a checking bank statement.

16 Q. Are there also deposit and withdrawal slips contained in
17 this?

18 A. Yes.

19 Q. For what account?

20 A. This is for account ending in 3324.

21 Q. For a particular time frame?

22 A. Yes, from 4/10/2009 through May 11, 2009.

23 Q. Are copies of this bank statement and withdraw and deposit
24 slips of clients kept in the ordinary course of WAMU's
25 practice?

1 A. Yes.

2 MS. MAKAREWICZ: I'd like to move this into evidence,
3 Your Honor.

4 THE COURT: Received.

5 (Government's Exhibit 24 received in evidence.)

6 MS. MAKAREWICZ: May I publish, please?

7 THE COURT: Yes.

8 MS. MAKAREWICZ: Can we highlight the activity on
9 4/17, please.

10 Q. Can you describe, Ms. Vargas, what happened on 4/17/2009?

11 A. Yes. On 4/17 there was a deposit in the amount of
12 \$480,322.55 and three debits.

13 Q. Can you turn to page eight.

14 Can you identify this document, Ms. Vargas?

15 A. Yes. This is a withdrawal and transfer slip.

16 Q. And what's the date?

17 A. The date on this slip is April 17, 2009.

18 Q. And the account number is ending?

19 A. Account number is ending in 3324.

20 Q. And what does this withdraw slip say? What happened with
21 respect to this slip?

22 A. This withdrawal slip is an instruction to Chase to
23 withdraw \$70,000.

24 Q. By whom?

25 DEFENDANT SEAN DAVID MORTON: Objection, Your Honor.

1 It's not illegal to withdraw funds that were legally gotten at
2 that time.

3 MR. BRODY: Your Honor, I'm going to object to the
4 contents of this document as inadmissible hearsay, also on
5 confrontation grounds.

6 THE COURT: In other words, as far as I heard so far,
7 the witness is just describing what the document says.

8 MR. BRODY: Yes, Your Honor.

9 THE COURT: I'll allow her to do that. Overruled.

10 BY MS. MAKAREWICZ:

11 Q. Who is the customer name listed on this document?

12 A. Sean David Morton.

13 Q. Can you turn to page nine.

14 DEFENDANT SEAN DAVID MORTON: Objection. This
15 witness has no firsthand knowledge of the facts, and failure to
16 state a claim upon which relief can be granted, Judge.

17 THE COURT: Would you ask how she came upon this
18 document?

19 How did you collect this document, ma'am? How did
20 you collect it?

21 THE WITNESS: This document was collected from our
22 iVault system where we have records for statements, and also
23 our OneView system where we have records for transactions such
24 as checks, withdrawals slips, deposit slips.

25 THE COURT: Ask her the foundational questions.

1 BY MS. MAKAREWICZ:

2 Q. Ms. Vargas, do you have access to the iVault system?

3 A. I do.

4 Q. Do you have access -- and, I'm sorry, I missed the name of
5 the second system.

6 A. OneView system.

7 Q. Did you have access for those two systems on the -- on
8 4/17/09?

9 A. Yes.

10 Q. Ms. Vargas, can you describe what occurred with respect to
11 this slip.

12 A. Yes. This transfer -- withdrawal transfer slip is
13 instructing Chase to transfer \$250,000 from account No. 3324 to
14 account number ending in 5891, signed by Melissa Morton.

15 MR. BRODY: Objection, Your Honor. The document
16 speaks for itself.

17 THE COURT: Well --

18 MR. BRODY: With respect to the signature.

19 THE COURT: When she said "signed by Melissa Morton,"
20 do you want that stricken?

21 MR. BRODY: Yes, Your Honor.

22 THE COURT: That part of the answer will be stricken.

23 MR. BRODY: Thank you.

24 BY MS. MAKAREWICZ:

25 Q. Can you turn to the next page, please.

1 Have you seen this document before, Ms. Vargas?

2 A. Yes.

3 Q. Was this retrieved from Chase's database?

4 A. Yes.

5 Q. Can you explain what occurred with respect to this slip.

6 A. Yes. This is a withdrawal transfer slip instructing Chase
7 to transfer from account ending in 3324 to account ending in
8 4249, the amount of \$110,467.99.

9 Q. And what date?

10 A. The date is 4/17/2009.

11 Q. Turn to Exhibit 25, please.

12 Do you have that?

13 A. Yes.

14 Q. Twenty-five?

15 DEFENDANT SEAN DAVID MORTON: Again, objection on
16 hearsay. She has no firsthand knowledge of the facts.

17 THE COURT: Overruled.

18 BY MS. MAKAREWICZ:

19 Q. What is this document?

20 A. This is a signature card.

21 Q. Was this document retrieved from the records of Washington
22 Mutual, now held by Chase?

23 A. Yes.

24 THE COURT: Did you retrieve it? Did you retrieve
25 the record?

1 THE WITNESS: Did I retrieve the record? No, I did
2 not.

3 THE COURT: So who did?

4 THE WITNESS: Our subpoena department.

5 THE COURT: I see.

6 THE WITNESS: Legal department.

7 DEFENDANT SEAN DAVID MORTON: So, objection, Your
8 Honor. Is that person here?

9 THE COURT: Well, let's get into it a little further.
10 If you want to ask some further questions.

11 DEFENDANT SEAN DAVID MORTON: Objection to hearsay,
12 again.

13 BY MS. MAKAREWICZ:

14 Q. Ms. Vargas, do you have access to that system today?

15 A. I do.

16 Q. Would it be possible for you to verify the documents as we
17 have here in the subpoena --

18 MR. BRODY: Objection, relevance.

19 THE COURT: Well, it's foundation. I mean, there was
20 an objection. This witness didn't actually retrieve the
21 documents.

22 Do you recognize these documents?

23 THE WITNESS: I do, yes.

24 THE COURT: I mean, have you dealt with these kinds
25 of documents before?

1 THE WITNESS: Absolutely.

2 THE COURT: And is there some way you can identify
3 the documents you've been shown other than the general
4 appearance that they look like Chase documents? Is there
5 something about them?

6 Did you direct the subpoena department to retrieve
7 these documents?

8 THE WITNESS: I did not.

9 THE COURT: I'll sustain the objection.

10 MR. BRODY: Thank you, Your Honor.

11 THE COURT: There was an earlier objection to the
12 first document, too, right?

13 MR. BRODY: There was, Your Honor.

14 THE COURT: So I'll now revisit that and sustain the
15 objection to that, too.

16 MR. BRODY: Thank you, Your Honor.

17 MS. MAKAREWICZ: Your Honor, I'd like to excuse this
18 witness with permission to recall.

19 THE COURT: All right.

20 MS. MAKAREWICZ: Thank you.

21 DEFENDANT SEAN DAVID MORTON: May I have a chance to
22 examine?

23 THE COURT: She is excused. She will be back, and
24 you will have a chance to cross-examine.

25 MS. MAKAREWICZ: The government would like to call

1 Pat Ciston to the stand, please.

2 THE CLERK: Please come forward and stand behind the
3 court reporter.

4 Please raise your right hand.

5 (Witness sworn.)

6 THE WITNESS: I do.

7 THE CLERK: Please be seated.

8 Please state your full name and spell it for the
9 record.

10 THE WITNESS: My name is Patricia Ann Ciston.
11 P-a-t-r-i-c-i-a, middle initial Ann, A-n-n, last name Ciston,
12 C-, like "Charlie," -i-s-t-o-n.

13 **PATRICIA CISTON; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:**

14 **DIRECT EXAMINATION**

15 BY MS. MAKAREWICZ:

16 Q. Good afternoon, Ms. Ciston.

17 Where do you work?

18 A. I work for JPMorgan Chase in the credit card division.

19 Q. What is your job title?

20 A. I'm an operations manager.

21 Q. How long have you been doing that?

22 A. I've been doing that job for 18 years.

23 Q. What are your job duties?

24 A. I'm responsible for all paper payment processing of credit
25 card payments.

1 Q. Does Chase have a recordkeeping system for documents sent
2 into it by its customers?

3 A. Yes, we do.

4 Q. What's its name?

5 A. It's called "FileNet."

6 Q. Is it also called "Smart Track"?

7 A. Yes.

8 Q. How well do that you know that system?

9 A. I use it all the time.

10 Q. When a customer sends Chase documents, does it record the
11 receipt of correspondence from customers at or near the time it
12 was received?

13 A. Yes.

14 Q. Was Chase subpoenaed for documents relating to the case
15 against the defendants?

16 A. Yes.

17 Q. Did Chase provide responsive documents?

18 A. Yes.

19 Q. I'd like to have you turn your attention to one of the
20 binders in front of you, No. 5, volume IV, to Exhibit 138, and
21 just let me know when you're ready.

22 A. Okay.

23 Q. 138.

24 A. It says "PennyMac" on it.

25 Q. Oh, forgive me.

1 139. I apologize.

2 A. Okay.

3 Q. Prior to today, have you reviewed these documents?

4 A. Yes, I have.

5 Q. Were you able to verify them on your Smart Track system?

6 A. Yes, I was.

7 Q. Did you personally do that?

8 A. Yes.

9 Q. Were these records kept in the ordinary course of business
10 by Chase?

11 A. Yes.

12 MS. MAKAREWICZ: I'd like to move 139 into evidence,
13 Your Honor.

14 THE COURT: Received.

15 (Government's Exhibit 139 received in evidence.)

16 MS. MAKAREWICZ: May I publish, please?

17 THE COURT: Yes.

18 BY MS. MAKAREWICZ:

19 Q. Ms. Ciston, can you describe what is -- what information
20 is contained on this first page.

21 A. Sure. This is our trackable inner-office labeling system.
22 So it shows Donna Occhino, who is the secretary for our CEO of
23 cards, mailed from her location at 270 Park Avenue in New York,
24 to our executive office's manager in Chicago.

25 Q. Do you happen to know either of those individuals?

1 A. I have met Patty Baker; I have never met Donna.

2 Q. In the context of this case, were you asked to find
3 information regarding a customer named Mark Urban?

4 A. I personally, no.

5 Could you explain further maybe?

6 Q. Pursuant to this case, were you asked to retrieve
7 documents regarding to a customer named Mark Urban?

8 A. I was not, no. I did not retrieve these documents.

9 Is that what you're asking me?

10 Q. But you were able to verify the existence of these
11 documents?

12 A. Right. They were given to me, and then I went and looked
13 them up just to verify they were accurate, but I didn't
14 originally pull these documents.

15 DEFENDANT SEAN DAVID MORTON: Objection to this
16 witness, hearsay. No, can't state a claim upon which relief
17 can be granted.

18 THE COURT: Can you describe in some more detail how
19 you went about this process.

20 Some documents were presented to you by another
21 employee?

22 THE WITNESS: Uh-huh.

23 THE COURT: And -- you mean yes, correct?

24 THE WITNESS: Yes. And then I was asked to validate
25 that they were official bank records.

1 THE COURT: And in that regard, can you describe what
2 you did?

3 THE WITNESS: Yes. I went out to our system, our
4 FileNet system, and I went out to our consumer whose name was
5 on this account, and I pulled up the documents that were stored
6 under his name.

7 THE COURT: In the computer system?

8 THE WITNESS: Yes.

9 THE COURT: And as a result, you --

10 THE WITNESS: I was able to see the same documents
11 that were presented to me.

12 THE COURT: On the computer?

13 THE WITNESS: Uh-huh.

14 THE COURT: I see. Okay.

15 MS. MAKAREWICZ: Thank you.

16 Q. Turn to page five, please.

17 Were you asked to review this document?

18 A. Yes, I was.

19 Q. I'd like draw your attention to the middle of the page
20 where it's noted "account number."

21 Do you see that?

22 A. Yes, I do.

23 Q. With respect to this case, were you asked to research that
24 account number?

25 A. Yes, I was.

1 Q. And did Mr. Urban have a credit card with Chase?

2 A. Yes, he did.

3 Q. Now, you are the vice president -- excuse me -- remind me
4 of your title again.

5 A. My banking title is vice president, and my job title is
6 operations manager.

7 Q. But you also stated that you process payments received
8 from customers.

9 A. Right. I'm responsible for all paper payments that are
10 presented on credit card accounts for Chase.

11 Q. Now, with respect to the document 139-5, if you had been
12 presented this document, would it have paid Mr. Urban's credit
13 card account?

14 MR. BRODY: Objection, foundation.

15 DEFENDANT SEAN DAVID MORTON: Foundation,
16 speculation.

17 THE COURT: What was your objection, Mr. Brody?

18 MR. BRODY: Foundation, Your Honor.

19 DEFENDANT SEAN DAVID MORTON: Mine was complete
20 speculation.

21 THE COURT: Foundation as to whether she has the
22 background to answer the question?

23 MR. BRODY: Yes, Your Honor.

24 THE COURT: Objection is overruled.

25 DEFENDANT SEAN DAVID MORTON: My objection, sir, was

1 speculation. She asked "if," the phrase was "if."

2 THE COURT: Objection is overruled.

3 BY MS. MAKAREWICZ:

4 Q. As part of your job duties, you handle paper payments.

5 What kind of payments are those? What typically do you see
6 from customers?

7 A. Their checks were drawn on the consumer's bank in the
8 U.S., and they present them to us sometimes with their
9 statement that matches the account number. Sometimes they just
10 present us the check to apply to their account.

11 Q. Prior to this case, have you seen a document like this?

12 A. I have seen these type of documents, yes.

13 Q. And is it an acceptable form of payment by Chase?

14 A. No, it is not.

15 Q. Did it have any effect upon Mr. Urban's account?

16 MR. BRODY: Objection, relevance.

17 THE COURT: Overruled. Well, I mean, "effect" is a
18 broad question.

19 If she didn't accept it, then that's the answer.

20 DEFENDANT SEAN DAVID MORTON: Well, my objection is
21 she has no firsthand knowledge of the facts. She doesn't know
22 if the bank used the bond to pay anything off, does she? She
23 doesn't know what happened to the bond, no firsthand knowledge
24 of the facts.

25 THE COURT: Overruled.

1 BY MS. MAKAREWICZ:

2 Q. Did Chase inform Mr. Urban of the fact that it did not
3 accept the document as an acceptable form of payment?

4 A. Yes, it did.

5 Q. Please turn to page 18.

6 Have you seen this document before, ma'am?

7 A. Yes, I have.

8 Q. Do you happen to know Jennifer Hunter?

9 A. I do not.

10 Q. May I ask you to direct your attention to the second
11 paragraph of this exhibit. Could you please read that out
12 loud.

13 A. Sure.

14 MR. BRODY: I'm going to object to that, Your Honor.
15 The document speaks for itself. The government wants to argue
16 it later --

17 THE COURT: Is the document offered in evidence?

18 MS. MAKAREWICZ: Yes.

19 THE COURT: It is in evidence?

20 MS. MAKAREWICZ: Yes.

21 THE COURT: What was it offered?

22 MS. MAKAREWICZ: The whole exhibit was offered -- no?

23 THE COURT: I just rule on what was presented to me.
24 I have just seen this document. Is this -- I don't know how
25 this document came to this witness's attention. You might ask

1 her some questions.

2 MS. MAKAREWICZ: Yes, sir, Your Honor.

3 Q. Did you find this document on the Chase's database?

4 A. It was in our FileNet system, yes.

5 Q. And you've reviewed that?

6 A. Yes, I have.

7 DEFENDANT SEAN DAVID MORTON: Objection, hearsay.

8 Is Mr. Urban going to testify?

9 THE COURT: Objection is overruled.

10 BY MS. MAKAREWICZ:

11 Q. You were originally handed documents and you verified that
12 on your system, correct?

13 A. Yes, I did.

14 Q. Okay.

15 MS. MAKAREWICZ: And, Your Honor, I'd like to have
16 this moved into evidence.

17 THE COURT: Received.

18 (Government's Exhibit 18 received in evidence.)

19 MS. MAKAREWICZ: May we publish?

20 THE COURT: Yes.

21 BY MS. MAKAREWICZ:

22 Q. Can I direct your attention again to the second paragraph,
23 18?

24 MR. BRODY: It's going to be the same objection, Your
25 Honor.

1 THE COURT: Let's see it again.

2 Just one moment.

3 BY MS. MAKAREWICZ:

4 Q. Does this letter --

5 THE COURT: One moment.

6 MS. MAKAREWICZ: Oh, I'm sorry.

7 THE COURT: This letter is dated 2015; is that right?
8 Is that part of your objection?

9 MR. BRODY: No, Your Honor. My objection is that
10 this letter is irrelevant to where it's effectively a legal
11 conclusion that the prosecution is trying to introduce through
12 this letter.

13 THE COURT: Well, I mean, the only point that's for
14 the jury to accept or reject is that the witness has said Chase
15 wouldn't accept this kind of payment.

16 MR. BRODY: Understood, Your Honor. I would
17 object --

18 THE COURT: Does this letter do anything more?

19 MS. MAKAREWICZ: It informs the client of such.

20 THE COURT: I see.

21 MR. BRODY: Your Honor, the client's knowledge is
22 irrelevant in this case.

23 THE COURT: But the client was informed, according to
24 this letter, in 2015.

25 MR. BRODY: Indeed, Your Honor. That may be true --

1 THE COURT: Isn't -- is that date after the operative
2 dates in the case?

3 MS. MAKAREWICZ: It's not, Your Honor. The
4 government has charged Count 21 --

5 THE COURT: Were any documents submitted by the --
6 well, I don't know.

7 Does the government have any exhibits that were
8 submitted or used after this date? In other words, this letter
9 describes at least Chase's view about the acceptability of the
10 bond for payment.

11 Is there evidence in the case that the bonds that
12 have been admitted so far were used after this date?

13 MS. MAKAREWICZ: Yes.

14 THE COURT: By the defendants?

15 MS. MAKAREWICZ: Yes.

16 THE COURT: I see.

17 MS. MAKAREWICZ: Count 32.

18 THE COURT: All right. You can use it, then.

19 MR. BRODY: I do apologize, Your Honor. I wanted to
20 make a point that what Mr. Urban knew or didn't know I fail to
21 see how it's relevant in this case.

22 THE COURT: Well, I can't say more because I don't
23 want to indicate any view to the jury, but I'm going to allow
24 it at this point.

25 MR. BRODY: Yes, Your Honor.

1 DEFENDANT SEAN DAVID MORTON: Your Honor, again, my
2 objection is this witness -- it's hearsay. She's not claiming
3 she wrote the letter, and in this case, how were -- how were we
4 supposed to know that they sent this letter to -- sent this
5 letter to Mr. Urban?

6 THE COURT: Objection is overruled.

7 MS. MAKAREWICZ: I have no further questions of this
8 witness, Your Honor.

9 THE COURT: Any examination?

10 MR. BRODY: Just very briefly. Thank you.

11 **CROSS-EXAMINATION**

12 BY MR. BRODY:

13 Q. Good afternoon.

14 There are concern forms of payment that Chase will
15 accept, right?

16 A. Uh-huh.

17 Q. And there are certain forms of payment that Chase won't
18 accept?

19 A. That's correct.

20 Q. And there may be things of value that Chase won't accept,
21 correct? Let me rephrase that.

22 Somebody can't pay their credit card with a car, for
23 example?

24 A. Correct.

25 Q. So there are things that may have value that cannot be

1 used to pay off a JPMorgan Chase credit card?

2 A. Correct.

3 Q. And so the mere fact that you don't accept a form of
4 payment doesn't mean that it has no value, correct?

5 A. Correct.

6 Q. Okay.

7 Thank you.

8 **CROSS-EXAMINATION**

9 BY DEFENDANT SEAN DAVID MORTON:

10 Q. Again, I'll re-ask my question, which was -- thank you for
11 being here, by the way. Thank you.

12 Did you write any of these letters?

13 A. No, I did not.

14 Q. Were any of these letters sent to Sean Morton or Melissa
15 Morton for their knowledge of what was happening with this
16 account?

17 A. No. It was strictly between us and our customer.

18 Q. Okay.

19 Do you know if -- okay.

20 On the -- on the form for repayment, can you give me
21 the words that it actually says on the contract as to how a
22 credit card is to be repaid?

23 A. I can't give you the exact words; I don't have it with me.

24 Q. Okay.

25 I don't want to put words in your mouth, but would it

1 be cash, check, money order, and specifically does it say the
2 word "other" anywhere in those contracts?

3 A. I do not believe it does. It's cash, check, money order
4 drawn on a U.S. bank or a foreign bank with a U.S. routing
5 number.

6 Q. So you're saying it doesn't say the word "other" anywhere?

7 A. No.

8 Q. Is there any other way to pay other than Federal Reserve
9 notes issued by the private Federal Reserve?

10 A. Only cash, check and money orders.

11 Q. What happened to the bond? That's the Sherlock Holmes
12 mystery here. Do you have any knowledge whatsoever as to what
13 happened to the bond after it got sent to you?

14 MS. MAKAREWICZ: Objection, relevance.

15 THE COURT: Overruled.

16 DEFENDANT SEAN DAVID MORTON: Thank you.

17 Q. Again, do you have any --

18 THE COURT: I misspoke. The objection is sustained.

19 BY DEFENDANT SEAN DAVID MORTON:

20 Q. Okay.

21 Was the bond that was used for the repayment sent
22 back to Mr. Urban?

23 MS. MAKAREWICZ: Objection.

24 THE COURT: Sustained.

25 Well, I mean, if you know.

1 Do you know what happened to the bond?

2 THE WITNESS: The bond would have been imaged into
3 our system and then destroyed.

4 THE COURT: So it would not have been sent back.

5 THE WITNESS: No. Based on the address it was sent
6 to, it would not have -- it would have been imaged and
7 destroyed.

8 BY DEFENDANT SEAN DAVID MORTON:

9 Q. In the accompanying paperwork with the bond which you saw
10 or --

11 A. It would have also been imaged, that is what this is, and
12 would have been destroyed.

13 Q. Why would the bank destroy what could possibly be a
14 valuable monetary instrument?

15 MS. MAKAREWICZ: Objection.

16 THE COURT: Sustained.

17 BY DEFENDANT SEAN DAVID MORTON:

18 Q. Do you have direct firsthand knowledge that the bond was
19 destroyed?

20 MS. MAKAREWICZ: Objection.

21 THE COURT: Sustained.

22 DEFENDANT SEAN DAVID MORTON: I don't quite speak
23 legalese, Your Honor, not being an attorney. So I'm not sure
24 if I get to answer[sic] the question again, or do you mean her
25 objection is sustained?

1 THE COURT: The objection was sustained. That means
2 the question can't be asked again.

3 DEFENDANT SEAN DAVID MORTON: Can be or --

4 THE COURT: No. Cannot be.

5 DEFENDANT SEAN DAVID MORTON: Okay. All right.

6 Thank you for your time, ma'am. Appreciate it.

7 THE COURT: Thank you, ma'am.

8 THE WITNESS: Thank you.

9 MS. MAKAREWICZ: The government would like to call
10 Nicole Lopez.

11 THE CLERK: Please step forward.

12 Please stand behind the court reporter.

13 (Witness sworn.)

14 THE WITNESS: Yes, I do.

15 THE CLERK: Please take the witness stand.

16 Please state your full name and spell it for the
17 record.

18 THE WITNESS: Nicole Lopez, N-i-c-o-l-e, L-o-p-e-z.

19 **NICOLE LOPEZ; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:**

20 **DIRECT EXAMINATION**

21 BY MS. MAKAREWICZ:

22 Q. Good afternoon, Ms. Lopez.

23 Where do you work?

24 A. For Citimortgage.

25 Q. What is your job title?

1 A. Business operations analyst.

2 Q. How long have you been doing that?

3 A. That specific job, for almost five years.

4 Q. How long have you worked for Citimortgage?

5 A. Almost 16 years.

6 Q. Prior to your current position, what did you do?

7 A. For that I was a mediation specialist, and prior to that I
8 was a unit manager.

9 Q. Does Citimortgage have a recordkeeping system for
10 documents sent into it by its customers?

11 A. We do.

12 Q. What is it called?

13 A. A file net.

14 Q. How well do you know that system?

15 A. I use it every day.

16 Q. Was Citimortgage subpoenaed for documents relating to the
17 case against the defendants?

18 A. We were.

19 Q. And did you use your document system to view the
20 subpoenaed records?

21 A. Yes.

22 Q. You personally did that?

23 A. I did, yes.

24 Q. I'd like you to turn your attention to Exhibit 140. It's
25 in the binders in front of you. Would you just take a look at

1 it, and let me know when you're done.

2 A. Okay.

3 Q. Have you seen these documents before?

4 A. Yes, I have.

5 Q. Are these the very documents that you viewed on the
6 Citimortgage data entry -- or document entry system?

7 A. They are.

8 Q. Was this -- or is it the practice of Citimortgage to
9 either upload or scan in documents provided in response -- or
10 provided to it at or near the time that Citimortgage receives
11 the documents?

12 A. Yes, we scan everything into FileNet.

13 MS. MAKAREWICZ: I'd like to move to -- into evidence
14 Exhibit 140.

15 THE COURT: Received.

16 (Government's Exhibit 140 received in evidence.)

17 MS. MAKAREWICZ: I'd like to publish, please. Page
18 one.

19 Q. In the context of this case, were you asked to retrieve
20 records with respect to an individual named David Wurster?

21 A. Yes.

22 Q. Was he a client of Citimortgage?

23 A. Yes.

24 Q. For what?

25 A. He was a mortgage holder.

1 Q. Where -- or where was his home?

2 A. In Maryland.

3 Q. Now, I'd like to draw your attention to the notations in
4 the top right-hand corner.

5 Can you -- are you familiar with those notations?

6 A. I am.

7 Q. Can you describe them, and feel free to annotate on the
8 board.

9 A. Okay. This area right here, of course, that's the date.
10 The STLERU is our St. Louis Executive Response Unit, and they
11 would stamp that when they received it so they can research the
12 request. This right here is when it's received into our legal
13 and research department, and it has the person who received it
14 and the date.

15 Q. Is this the account number for Mr. Wurster?

16 A. It is.

17 Q. Can you turn to page 13, please.

18 I'm sorry. 14.

19 A. All right.

20 Q. Again, can you describe the notations at the top
21 right-hand corner.

22 A. We have the same: We have the stamp from St. Louis
23 Executive Response Unit, and we have the received stamp from
24 the borrower's account number.

25 Q. I'd like you to turn your attention to the screen, and

1 look at Exhibit 68, page nine.

2 DEFENDANT SEAN DAVID MORTON: Again, objection as to
3 hearsay. She is not the CFO of Citimortgage, nor is she
4 John C. Gerspach, that actually signed for it.

5 THE COURT: Overruled.

6 BY MS. MAKAREWICZ:

7 Q. Prior to today, were you shown a copy of this document?

8 A. Yes.

9 Q. I'd like to draw your attention to this area. Is that
10 Mr. David Wurster's account number with Citimortgage?

11 A. The account number with the batch two?

12 Q. Yes.

13 A. Yes.

14 Q. Does Citimortgage accept this document as a method of
15 payment?

16 A. No, we do not.

17 Q. Do you know what happened with Mr. Wurster's account with
18 Citimortgage?

19 A. His account has recently gone into foreclosure, and all
20 appeals were lost, and the bond was foreclosed on.

21 MS. MAKAREWICZ: No further questions, Your Honor.

22 MR. BRODY: No questions as to this witness, Your
23 Honor.

24 ///

25 ///

CROSS-EXAMINATION

BY DEFENDANT SEAN DAVID MORTON:

Q. Hi, Ms. Lopez. How are you?

A. Good. Thank you.

Q. So the ultimate mystery becomes, your -- you didn't receive this bond, you didn't receive the -- you didn't sign for it or receive it personally, right?

A. I did not.

Q. Were you familiar with the CFO who got it and signed for it?

MS. MAKAREWICZ: Objection, relevance.

DEFENDANT SEAN DAVID MORTON: Relevance is --

THE COURT: Sustained.

BY DEFENDANT SEAN DAVID MORTON:

Q. Do you know, again -- do you have any -- well, I'm sorry.

In your opinion, is there a reason why this bank did not respond to three notices from a notary about the deposition of this?

MS. MAKAREWICZ: Objection, Your Honor, calls for a lay opinion, relevance.

THE COURT: Sustained.

BY DEFENDANT SEAN DAVID MORTON:

Q. What happened to the bond?

MS. MAKAREWICZ: Objection, relevance.

THE COURT: Sustained.

1 DEFENDANT SEAN DAVID MORTON: Okay. That's good.

2 Thank you.

3 MS. MAKAREWICZ: The government would like to call
4 Daniel Corralejo to the stand, please.

5 Thank you.

6 (Witness sworn.)

7 THE WITNESS: I do.

8 THE CLERK: Thank you.

9 Please be seated.

10 Please state your full name and spell it for the
11 record.

12 THE WITNESS: My name is David Corralejo. David,
13 D-a-v-i-d, Corralejo, C-o-r-r-a-l-e-j-o.

14 **DAVID CORRALEJO; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:**

15 **DIRECT EXAMINATION**

16 BY MS. MAKAREWICZ:

17 Q. Good afternoon, Mr. Corralejo.

18 Where do you work?

19 A. At PennyMac loan services.

20 Q. What is your job title?

21 A. I'm a senior litigation specialist.

22 Q. How long have you been doing that?

23 A. About three-and-a-half years.

24 Q. Can you describe your job duties, please.

25 A. Usually when we file like foreclosure complaints, I handle

1 any type of response, answer filed -- any type of pleadings
2 filed. I work with our attorneys to resolve the case either
3 through settlement or judgment.

4 Q. Does PennyMac have a recordkeeping system for documents
5 sent into it by its customers?

6 A. Yes, we do.

7 Q. Is there a name to it?

8 A. Yes. It's called "PennyDocs."

9 Q. How well do you know that system?

10 A. Very well. It's something I use on a pretty regular
11 basis.

12 Q. When a customer sends PennyMac documents, does PennyMac
13 scan these documents at or near the time it received the
14 documents?

15 A. Yes, we do.

16 Q. Now, with respect to this case, was PennyMac subpoenaed
17 for documents relating to the defendants?

18 A. Yes.

19 Q. And did you personally review PennyMac's PennyDocs system
20 for responsive documents?

21 A. Yes, I did.

22 Q. Can I have you turn your attention to Exhibit 138, and
23 just let me know when you're ready.

24 A. Okay.

25 Q. And prior to today, have you seen these documents before?

1 A. Yes, I have.

2 Q. Were these the documents you viewed on the PennyDocs
3 system with respect to this case?

4 A. Yes, I did.

5 Q. Does PennyMac keep these records in the ordinary course of
6 business?

7 A. The actual paper documents or --

8 Q. Or the documents uploaded to the PennyDocs system.

9 A. We keep the records in our PennyDocs system. The actual
10 physical document itself, we keep it for 30 days, and then it's
11 shredded.

12 MS. MAKAREWICZ: Your Honor, at this time I'd like to
13 move this exhibit into evidence, 138.

14 THE COURT: Received.

15 (Government's Exhibit 138 received in evidence.)

16 BY MS. MAKAREWICZ:

17 Q. Now, in the course of this case, did you -- were you asked
18 to retrieve information with respect to an individual named
19 Elan Medel?

20 A. Yes.

21 Q. Was he a customer of PennyMac?

22 A. Yes.

23 Q. For what?

24 A. We had -- a servicing a mortgage.

25 Q. And where was -- do you remember where the home was?

1 A. No, I do not.

2 Q. That's okay.

3 MS. MAKAREWICZ: Let's turn to page ten.

4 Request to publish, Your Honor, page ten.

5 THE COURT: Okay. You may publish it.

6 BY MS. MAKAREWICZ:

7 Q. Now, prior to today, did you have a chance to take a look
8 at this document?

9 A. Yes, I did.

10 Q. Does PennyMac accept this document as a method of payment?

11 A. No, we do not.

12 Q. When PennyMac received this document, did anything change
13 with respect to Mr. Medel's outstanding loan balance?

14 A. No, it did not.

15 Q. Did PennyMac keep a copy of the envelope in which this
16 document was mailed, or at least scan the copy of the envelope?

17 A. Yes.

18 Q. Can you turn to page 36, please.

19 Have you seen this document before? You can take a
20 look at it on the screen, too.

21 A. Yes.

22 Q. And was this document retrieved personally by you off the
23 PennyDocs system?

24 A. Yes, it was.

25 Q. Page 41, please.

1 Did PennyMac Bank receive a duplicate copy of this
2 document by fax?

3 A. Yes, we did.

4 Q. And did this document have any effect upon Mr. Medel's
5 mortgage with PennyMac?

6 MR. BRODY: Objection, relevance, motion to strike.
7 And motion to strike the same question previously that was
8 asked, almost the identical question.

9 THE COURT: About what was the --

10 MR. BRODY: About whether or not the instrument that
11 he reviewed had any effect on the balance of Mr. --

12 THE COURT: Well, your earlier question was whether
13 or not they accepted it.

14 MR. BRODY: Whether or not they accepted it. Thank
15 you.

16 THE COURT: That can stand. Objection is overruled.

17 And now something about a fax. I don't know how
18 faxes are maintained. Is it something new, or if he has
19 knowledge of it.

20 BY MS. MAKAREWICZ:

21 Q. Mr. Corralejo, have you seen this document before?

22 A. Yes, I have.

23 Q. Was it part of the documents retrieved with respect to
24 Elan Medel in the PennyDocs system?

25 A. Yes, it was.

1 THE COURT: Is this -- exhibit what?

2 MS. MAKAREWICZ: 136, page 37, in evidence.

3 DEFENDANT SEAN DAVID MORTON: Objection. Are they
4 trying to say that --

5 MS. MAKAREWICZ: I did 38.

6 DEFENDANT SEAN DAVID MORTON: Are they trying to say
7 the client sent them this, or the man and woman sent them this
8 document, this fax?

9 THE COURT: Objection is overruled.

10 BY MS. MAKAREWICZ:

11 Q. Mr. Corralejo, at some point, did Elan Medel sue PennyMac
12 in court?

13 A. Yes, there was.

14 Q. Where?

15 MR. BRODY: Objection, Your Honor, relevance.

16 THE COURT: Is this going somewhere? Is it going to
17 be tied up to something else?

18 MS. MAKAREWICZ: Yes.

19 THE COURT: All right. Then you can proceed.

20 BY MS. MAKAREWICZ:

21 Q. Was it -- was there a case instituted from Elan Medel
22 against PennyMac?

23 A. Yes.

24 Q. What was the result?

25 A. The case was dismissed.

1 MS. MAKAREWICZ: No further questions, Your Honor.

2 MR. BRODY: I'm going to renew my objection to any of
3 the statements regarding the lawsuit against --

4 THE COURT: Yes, the questions about the lawsuit and
5 the answers are not relevant, and they're stricken.

6 MR. BRODY: Thank you, Your Honor.

7 THE COURT: The jury is instructed to disregard them.

8 DEFENDANT SEAN DAVID MORTON: Can I ask further
9 questions?

10 **CROSS-EXAMINATION**

11 BY DEFENDANT SEAN DAVID MORTON:

12 Q. Sir, was -- okay. Again, what happened to the bond?

13 MS. MAKAREWICZ: Objection, relevance.

14 THE COURT: Sustained.

15 BY DEFENDANT SEAN DAVID MORTON:

16 Q. From you receiving the bond, your organization, was there
17 any harm or loss to you --

18 MS. MAKAREWICZ: Objection, relevance.

19 BY DEFENDANT SEAN DAVID MORTON:

20 Q. -- for receiving this?

21 THE COURT: Sustained.

22 BY DEFENDANT SEAN DAVID MORTON:

23 Q. Was there anything illegal about sending you, mailing you
24 something, sending you something in the mail?

25 MS. MAKAREWICZ: Objection, move to strike,

1 relevance.

2 THE COURT: Move to strike what? Nothing happened.

3 MS. MAKAREWICZ: His question.

4 THE COURT: You can't move to strike -- questions are
5 not evidence. He can ask a question. You can make an
6 objection.

7 MS. MAKAREWICZ: Yes, Your Honor.

8 THE COURT: And I rule. I mean, that's what happened
9 throughout.

10 The objection is sustained.

11 BY DEFENDANT SEAN DAVID MORTON:

12 Q. What does your company eventually do to Mr. Medel?

13 MS. MAKAREWICZ: Objection, relevance.

14 THE COURT: Sustained.

15 BY DEFENDANT SEAN DAVID MORTON:

16 Q. Did your company foreclose on Mr. Medel and take his home?

17 A. No, we did not. We started foreclosure, but we worked out
18 a loan modification, and the loan is current right now.

19 DEFENDANT SEAN DAVID MORTON: Okay. Thank you.

20 No further questions.

21 THE COURT: Thank you, sir. Thank you for being
22 here.

23 DEFENDANT SEAN DAVID MORTON: Thank you, Judge.

24 Thank you for being here.

25 THE COURT: All right. Then who is the next witness?

1 MS. MAKAREWICZ: The government would like to call
2 Barbara Lavender.

3 THE CLERK: Please come forward and stand behind the
4 court reporter.

5 (Witness sworn.)

6 THE WITNESS: Yes, I do.

7 THE CLERK: Please be seated.

8 Please state your full name and spell it for the
9 record.

10 THE WITNESS: It's Barbara, and my last name is
11 Lavender. B-a-r-b-a-r-a, L-a-v-e-n-d-e-r.

12 **BARBARA LAVENDER; GOVERNMENT'S WITNESS, SWORN, TESTIFIED:**

13 **DIRECT EXAMINATION**

14 BY MS. MAKAREWICZ:

15 Q. Good afternoon, Ms. Lavender.

16 A. Good afternoon.

17 Q. Do you work?

18 A. Yes.

19 Q. What do you do?

20 A. I'm a clerk at Hemet Adult School.

21 Q. Do you know the defendants?

22 A. I know of them, yes.

23 Q. Can you explain how you came to know the defendants.

24 A. Through my husband. He used to go to conferences where
25 they had speakers on various topics, and Mr. Morton was at one

1 of those conferences. And he gave a presentation, and my
2 husband spoke with him after the presentation, got one of his
3 business cards, and then came home and told me about his talk.

4 Q. And what did your husband say to you about the talk?

5 A. The talk was basically a form or a way to pay off debt
6 through purchasing a portion of a bond.

7 Q. Were you trying to resolve a debt?

8 A. Yes. I had --

9 Q. Sorry. What kind?

10 A. I'm sorry.

11 It was a Parent Plus loan that -- a student loan that
12 I took out for our son.

13 Q. Have you ever spoken to the defendant Sean David Morton?

14 A. Yes.

15 Q. Can you describe the context of that conversation or
16 conversations.

17 A. After talking with my husband --

18 THE COURT: When? When?

19 BY MS. MAKAREWICZ:

20 Q. When -- do you recall about when you spoke to Mr. Morton?

21 A. It had to have been 2014, or early 2015, but I don't know
22 the exact date.

23 Q. And what did you speak about?

24 A. Well, I introduced myself, told him that he had spoken
25 with my husband who had been at a conference that he recently

1 attended, and that I was interested in learning about the
2 process about purchasing a bond. And he just kind of explained
3 it a little bit, did an overview of it, gave me some examples
4 of how he had helped others. I think one was with a house
5 lien, paying off a lien against a home, and another one, I
6 think, was for a car.

7 Q. Did you have an occasion to speak with him again?

8 A. I did. I think I -- in the first conversation, he kind of
9 asked me how much debt I had, and then how much of a bond. His
10 large bond, I think he said he had a \$5 million bond, and that
11 I could purchase "X" amount of dollars in bond money myself,
12 and he determined the fee would be \$2500.

13 And I didn't have the money at the time. So I told
14 him that I would get in contact with him again once I had the
15 money.

16 Q. And is that what happened in the second conversation?

17 A. Yes, yes.

18 Q. And what else happened in that conversation?

19 A. Well, basically I just let him know I had the money. He
20 gave me information on where to send it, and then he got my
21 email address to send me the process and the paperwork via
22 email.

23 Q. Did you ever have an occasion to speak with defendant
24 Melissa Morton?

25 A. I don't recall phone conversations, but by email, yes.

1 Q. Ms. Lavender, there should be a black binder in front of
2 you, and I would like for you to turn to Exhibit 143, please,
3 and just let me know when you're ready.

4 A. Okay.

5 Q. Take a moment and just look through those documents, and
6 let me know when you're finished.

7 A. Okay.

8 Q. Do you recognize these documents?

9 A. Yes.

10 Q. How do you recognize them?

11 A. They're the process package that was emailed to me by
12 Mr. Morton.

13 MS. MAKAREWICZ: At this time, Your Honor, I'd like
14 to move this exhibit into evidence, 143.

15 THE COURT: Received.

16 (Government's Exhibit 143 received in evidence.)

17 BY MS. MAKAREWICZ:

18 Q. Now, I'd like to publish a couple of things on the screen
19 in front of you.

20 Can you take a look at the first two pages.

21 What did you understand this document to be?

22 A. Basically the steps that I would need to take in order to
23 get the bonds and then forward it to the lender.

24 Q. Can you turn to page six, please.

25 Do you recognize this document?

1 A. Yes.

2 Q. And what do you know about this document, or --

3 A. I thought it was my portion of purchasing of his original
4 bond.

5 Q. Do you know who prepared this document?

6 A. I do not know.

7 Q. Who -- how did you receive it?

8 A. Via FedEx.

9 Q. When you received the document, was it correct?

10 A. No.

11 Q. What was wrong with the document?

12 A. There were -- the amount of the bonds was incorrect. My
13 last name was incorrect, and I believe, further down, either my
14 date of birth or -- I can't remember, but I think it was my
15 date of birth, not my Social.

16 MR. BRODY: Your Honor, I would object on relevance
17 grounds.

18 THE COURT: Overruled.

19 BY MS. MAKAREWICZ:

20 Q. Did you contact the Mortons with respect to these errors?

21 A. Yes.

22 Q. Who?

23 A. Mrs.

24 Q. By email?

25 A. Yes.

1 Q. And what happened?

2 A. I just identified the places that were where the errors
3 were, sent the packet back, they made the corrections, and sent
4 it back to me.

5 Q. What was your understanding about what would happen after
6 you returned the documents to the Mortons?

7 A. Well, next step would be.

8 DEFENDANT SEAN DAVID MORTON: Objection, speculation.

9 THE COURT: Sustained.

10 BY MS. MAKAREWICZ:

11 Q. You can answer.

12 THE COURT: No, she can't answer. I sustained the
13 objection.

14 MS. MAKAREWICZ: Oh, I'm sorry.

15 Q. Page 54, please.

16 Did you receive this document?

17 A. Yes.

18 Q. Page 56, please.

19 Now, can you describe what is contained on this page,
20 56, 143-56.

21 A. It's the cashier's check that I sent for payment of -- for
22 purchasing the bond, the business card that my husband received
23 at the conference.

24 Q. Take a moment.

25 A. And a sticky note with my husband's writing with the

1 address of where I was to send the cashier's check.

2 Q. Can you turn to page 57, please.

3 Do you recognize this document?

4 A. Yes.

5 Q. What is it?

6 A. It's the certified mail receipt that was sent to Navient
7 and -- showing that they received the bond.

8 Q. And did you request this from the Mortons?

9 A. Yes.

10 Q. Who did you receive it from?

11 A. Mrs.

12 Q. By email?

13 A. Yes.

14 Q. What happened at this point with respect to the bond?

15 A. Nothing. I kept checking my loan balance, and it didn't
16 change at all. So then I reached out via email to find out
17 what is the next step, what is the process? What are we doing?
18 Because I felt that part of the payment was also assistance
19 with the process. So once I got the bond I knew was received
20 by the bank, it just kind of everything was dead in the water
21 at that point. So I was reaching out to them to find out what
22 were the next steps going to be.

23 Q. Can you turn to Exhibit 144, and just take a look through
24 Exhibit 144, and let me know when you're done.

25 MR. BRODY: Your Honor, I'm going to be objecting to

1 the introduction of these documents as irrelevant.

2 THE COURT: I have no idea what -- just one moment.

3 I'll allow the exhibit in evidence up to page four,
4 and -- just one moment.

5 I'll actually only allow the first two pages, page
6 one and two of the Exhibit 144.

7 MS. MAKAREWICZ: Thank you, Your Honor.

8 Q. Ms. Lavender, can you turn to page two.

9 Do you recognize pages one and two, Ms. Lavender?

10 A. Yes.

11 Q. What are they?

12 A. Email correspondence.

13 Q. Between whom?

14 A. Myself and Mrs. Morton.

15 Q. Did you have these emails on your computer?

16 A. Yes.

17 Q. Were they provided to the government?

18 A. Yes.

19 MS. MAKAREWICZ: I'd like to move the exhibit's
20 one -- part one and two -- pages one and two into evidence.

21 THE COURT: Page one and two of Exhibit 44 can be
22 received, but not the rest of it.

23 MS. MAKAREWICZ: That's fine, Your Honor. 144.

24 (Government's Exhibit 144 received in evidence.)

25 MS. MAKAREWICZ: May we publish page two?

1 THE COURT: Yes.

2 BY MS. MAKAREWICZ:

3 Q. I'd like to draw your attention to the email dated
4 July 3rd, 2015.

5 Do you recall sending this message?

6 A. Yes.

7 Q. And can you add context as to what was going on during
8 this time as to why you sent this email to support at
9 strangeunivseradio.com?

10 A. Because I hadn't heard back from the bank, there was no
11 correspondence at that point from the bank at all. And, as I
12 said, the loan balance has been the same.

13 Q. Was the same true with respect to the second email?

14 A. Yes.

15 Q. Was that sent by your husband?

16 A. No.

17 Q. Did you sign his name to it?

18 A. Yes.

19 Q. How about the third?

20 A. Again, I signed his name.

21 Q. Did you hear from Melissa Morton after September 26, 2015?

22 A. Yes.

23 Q. What happened?

24 MR. BRODY: Objection, Your Honor. I'm anticipating
25 the witness might recount what was in the emails --

1 THE COURT: Is that what's going to be asked?

2 MS. MAKAREWICZ: Yes.

3 THE COURT: Objection sustained.

4 MR. BRODY: Thank you.

5 BY MS. MAKAREWICZ:

6 Q. Do you still have debt with Navient?

7 A. Yes.

8 MS. MAKAREWICZ: No further questions.

9 **CROSS-EXAMINATION**

10 BY MR. BRODY:

11 Q. Good afternoon, Ms. Lavender.

12 A. Good afternoon.

13 Q. You said that your husband met Sean Morton or saw him at a
14 lecture? I'm sorry.

15 A. Both. He was at the lecture, and then my husband spoke to
16 him after the lecture.

17 Q. So Sean Morton was giving the lecture?

18 A. He was one of a few guest speakers, is my understanding.

19 Q. Did you know at all what sort of -- I'm going to say
20 conference it was?

21 A. You know, I can't remember off the top of my head.

22 Q. And do you have any idea what Mr. Morton was lecturing on
23 at that conference?

24 A. I assumed it was the bond process. That's what caught my
25 husband's attention.

1 Q. Okay.

2 So when -- at some point you said you spoke to
3 Mr. Morton on the phone.

4 A. Yes.

5 Q. Did he give you a verbal explanation of how the bond
6 process was supposed to work?

7 A. Yeah, roughly, yes.

8 Q. And what was your understanding -- or what did he tell
9 you?

10 A. Well, the biggest thing that caught my attention was he
11 said that, under the Constitution, lenders and various
12 companies do not have to accept only one form of payment in
13 order to clear a debt. So from that standpoint, that's what
14 made it seem plausible to me at the time.

15 Q. And did he explain how the bond would actually pay the
16 debt?

17 A. Yes. He said you would give a bond for way more than the
18 balance is due, and then the bank, when they got the bond,
19 could then use the bond money, and they would accept it because
20 it was so much more over the debt that I owed.

21 Q. In the sense that they might turn a profit somehow?

22 A. Yes.

23 Q. And you yourself never saw Sean Morton lecture; is that
24 correct?

25 A. Correct.

1 Q. And did you ever hear him on the radio?

2 A. No. I just -- through my husband.

3 Q. Okay.

4 Did your husband give you any indication of why he
5 thought Sean Morton might know what he was doing?

6 A. I think he'd been following him for a while. He's one of
7 various speakers that my husband would talk about. So I don't
8 know for how long, but -- I don't know. I think he either
9 liked or understood or thought it was plausible the message he
10 was delivering.

11 Q. And did your husband listen to Mr. Morton on the radio?

12 A. I'm not positive.

13 Q. Okay.

14 But when you say that he was one of the people that
15 your husband was following, in what way was he sort of
16 following Sean Morton, if you know?

17 A. Probably through newscasts or, I think, web. Again, it
18 was one of the things that we did not share together. So I
19 don't know a lot of the details around it.

20 Q. Okay.

21 You, yourself, never went to these conferences?

22 A. No.

23 Q. And you said, I think, you never spoke to Melissa Morton
24 on the phone, correct?

25 A. No, I don't recall ever speaking to her on the phone.

1 Q. Only by email did you communicate with her?

2 A. Correct.

3 Q. Okay.

4 And she personally never gave you an explanation of
5 how the bond was supposed to work?

6 A. No.

7 Q. Okay.

8 Have you had any experience with bonds before?

9 A. No, just a general overview.

10 Q. Okay.

11 And did you think you were doing anything illegal by
12 submitting this bond?

13 A. No.

14 Q. Sean Morton never said to you, you know, he never
15 suggested to you, Hey, this might be illegal, but it could
16 work?

17 A. No. And if he had, I wouldn't have done it.

18 Q. And Melissa Morton obviously never suggested anything like
19 to you either?

20 A. No.

21 Q. Did you worry that it was illegal?

22 A. You know, no, I didn't. My thought was really would the
23 bank accept it as a form of payment. That was where my focus
24 was.

25 Q. So were you sort of thinking, well, why not give it a try?

1 A. Yes.

2 Q. I mean, I don't want to put words into your mouth. Is
3 that fair?

4 A. Roughly, yes.

5 Q. Okay.

6 How much was the debt that you were trying to, let's
7 say, get rid of?

8 A. It was originally about 48,000, but I had been laid off of
9 work for a few years and had to defer it. So it was up to
10 70,000.

11 Q. Okay.

12 And forgive me for asking this, I certainly don't
13 want to sound sort of facetious or anything, but did it seem
14 strange to the idea that you could get rid of \$70,000 in debt
15 by paying \$2500 to somebody?

16 A. I suppose when you put it that way, yes, but I honestly
17 thought that he possibly had found kind of a loophole, and,
18 hey, you know, you hear it all the time. Wealthy with tax
19 loopholes and that kind of thing. So I thought, well, you
20 know, maybe for just a regular guy there is and not a lot of
21 people are aware of it.

22 So it was enough of a debt. I wasn't trying to get
23 out of paying the debt. It was something I was going into
24 retirement facing. You cannot get rid of it any other way but
25 to pay it off. So I was just looking for a way to clear the

1 debt. And I didn't think I would -- it was fraudulent, or I
2 just thought maybe this is another way of doing it, and I was
3 willing to give it a try.

4 Q. Okay.

5 We've seen some of the paperwork that was prepared
6 for you. Obviously, you signed that paperwork, correct?

7 A. Correct.

8 Q. And that paper was a lot of -- I'm going to say legalese
9 in that paperwork?

10 A. Correct.

11 Q. Did you understand what that legalese meant?

12 A. Not a majority of it, no.

13 Q. Okay. But you signed it anyway?

14 A. Correct.

15 Q. Now, you paid the Mortons \$2500 for this paperwork; is
16 that right?

17 A. Correct.

18 Q. And they created it for you, and you submitted to the bank
19 or they submitted it to the bank, as far as you know?

20 A. They gave me instructions on I had to find out where it
21 was to go to, I had to find the name of the CEO, the address.
22 And when I provided that and returned the paperwork, they
23 forwarded it directly to them.

24 Q. Okay.

25 It was your agreement with the Mortons, wasn't it,

1 that they would give you your money back under certain
2 circumstances?

3 A. Did I have an actual conversation where either one of them
4 said to me, "We'll give you the money back"? No.

5 Q. I guess what I'm saying is was it your understanding that
6 you could get your money back if you provided them with the
7 original bond?

8 A. If the bank accepted as a form of payment and we could --
9 if they didn't accept it as a form of payment, and I could get
10 the original bond back.

11 Q. Okay.

12 So the agreement was they prepared the bond for you,
13 it's submitted to the bank, if the bank doesn't accept it, and
14 you can get the original bond back, then they would give you
15 your money back?

16 A. After following all the steps through the process.

17 Q. Okay.

18 A. Because there were several other steps that you would go
19 through, but we never got to that point.

20 Q. You didn't complete those steps.

21 A. No, we did not.

22 Q. Did you make any effort to try it get the bond back?

23 A. I did.

24 Q. And that was not successful, I gather?

25 A. It was not successful.

1 Q. Okay.

2 Did Mr. Morton ever guarantee you that the bond would
3 work?

4 A. No guarantees.

5 Q. And you were never charged with a crime in connection with
6 the use of the bond or anything like that, correct?

7 A. No.

8 Q. Okay.

9 MR. BRODY: Thank, Ms. Lavender. Thank you.

10 THE COURT: Do you have any questions of this
11 witness?

12 DEFENDANT SEAN DAVID MORTON: Barbara, thank you very
13 much.

14 No questions, sir.

15 THE COURT: Thank you, ma'am.

16 MS. MAKAREWICZ: Your Honor, at this time we are
17 waiting for the Chase representative, Washington Mutual
18 representative who went back to her office in downtown
19 Los Angeles to return after having verified the documents that
20 we had issues with earlier.

21 My understanding is that she's on her way back and
22 should be here within 15 minutes. At that point, we would
23 present her as our last witness before resting.

24 THE COURT: I see.

25 DEFENDANT SEAN DAVID MORTON: May I please suggest we

1 break for the day, Your Honor?

2 THE COURT: No, we're not going to break for the day,
3 but the jury is here, and I want to keep things moving.

4 Is that your last witness?

5 MS. MAKAREWICZ: Yes, Your Honor.

6 THE COURT: So where we're at in the trial is that
7 the government has presented its evidence. As I told you at
8 the beginning, there's no obligation for the defense to present
9 any evidence because in criminal cases the burden is on the
10 government.

11 I don't know what the schedule will be in that
12 regard. Perhaps you can take 10 or 15 minutes until we get the
13 next witness, then we'll go on to five o'clock. I think we're
14 ahead of schedule. I think I told you a week, it may be less
15 than that. Very hard to predict the duration of a trial. But
16 I think we're making good progress.

17 So would you mind taking 10 or 15 minutes to refresh
18 yourselves, and then we can go on to five o'clock. I'll try to
19 use the time with the lawyers to keep things going.

20 (Proceedings held outside the presence of the jury:)

21 THE COURT: Mr. Brody, can I ask you some questions
22 at this point, if you wouldn't mind?

23 MR. BRODY: Yes, Your Honor.

24 THE COURT: What is your intention with regard to
25 your part of the case?

1 MR. BRODY: Your Honor, I am planning on calling Sean
2 Morton as a witness for my case.

3 THE COURT: But, I mean, he is a defendant. How can
4 you call him?

5 MR. BRODY: My understanding is that he can agree to
6 act as a witness, Your Honor.

7 THE COURT: Is he going to?

8 Are you going to be a witness in the case?

9 DEFENDANT SEAN DAVID MORTON: I'm sorry. I still
10 haven't decided, Your Honor. I'm hoping I have until at least
11 tomorrow to prepare.

12 THE COURT: Well, you probably will.

13 And what was your comment?

14 MS. MAKAREWICZ: Your Honor, while the government
15 understands that Mr. Morton may waive his Fifth Amendment
16 right, we would request that he seek legal counsel with respect
17 to doing that prior to taking the stand. We have concerns
18 about if Mr. Morton is fully informed of his legal right not to
19 take the stand --

20 THE COURT: Well, I think he's aware, but I'll tell
21 him, in the clearest way I can, that the Fifth Amendment
22 protects all citizens from being compelled to testify.
23 Citizens have a right to testify if they wish, but they have a
24 right not to testify, an absolute right. And if the defendant
25 doesn't testify, an instruction will be given to the jury that

1 no adverse inference of any kind can be drawn from the failure
2 to testify.

3 Testifying, of course, is something you have to
4 decide for yourself. You're representing yourself, and as I
5 can see throughout the trial, you have a certain strategy or
6 defense, and I can't say anything that would encourage you to
7 testify or not. But one thing you should be aware of is that
8 if you're contemplating making a final argument, the argument
9 has to be based upon evidence admitted, and questions by a
10 lawyer or, in this case, by you, are not evidence, they're just
11 questions. So if you are of the mind that some of your
12 questions, which attempted to impart, bring out your strategy,
13 are evidence, I can tell you that they're not, and at least
14 most of them.

15 DEFENDANT SEAN DAVID MORTON: May I ask a question,
16 Your Honor?

17 THE COURT: Yes.

18 DEFENDANT SEAN DAVID MORTON: I put in an Affidavit
19 of Nonculpability which was then certified by a notary that was
20 never responded to by the prosecution. That's actually in the
21 records as a notice of them not responding to an Affidavit of
22 Nonculpability.

23 Now, as I understood it, an affidavit that's not
24 responded to is considered proof in fact -- or proof in law and
25 truth in fact, and that's in the court record. The notices

1 that I put in are the in the court record of nonculpability and
2 questions about jurisdiction to them, notices of jurisdiction,
3 which also were not responded to them.

4 In fact, I had a claim for declaratory judgment in
5 the superior court against the prosecution for them not to get
6 a lower court to assist me because this court has not noticed
7 any of the notices that I put in for jurisdiction or
8 culpability.

9 So my question is whether or not the prosecution
10 would be estopped at this point because they haven't responded
11 to aspects of culpability or knowingly doing wrong here.

12 THE COURT: Well, I will tell you, in order for you
13 to consider whether or not to testify, that the grounds that
14 you just raised would not be a basis for dismissing the case.
15 So I think that's important for you to know and considering
16 things.

17 MR. BRODY: I'm sorry, Your Honor. May I ask, for
18 Mr. Mortons's benefit, that perhaps it would be appropriate for
19 the court to instruct him that his affidavit will not be
20 admissible in any way?

21 THE COURT: Yes, the affidavit won't be admissible.
22 Because at trial, the witness has to present themselves for
23 cross-examination with some exception that we've experienced
24 throughout the trial called a business records exception.

25 DEFENDANT SEAN DAVID MORTON: Even though it's on the

1 docket sheet, and it's actually part of the record, sir?

2 THE COURT: Yes. I'm telling you these things for
3 your benefit, for you to consider, among other things. I can't
4 be your lawyer. So I'm just trying to give you all the
5 information that you should consider in making this weighty
6 decision. It's an important decision, whether or not to
7 testify, because the burden is always on the government. And,
8 on the other hand, there may be things that are not part of the
9 record that you want to argue, and you may have to consider how
10 to present them.

11 Now, let me just ask a question of you -- I'll get
12 back to you, Mr. Morton -- how do you -- aside from Mr. Morton,
13 how do you intend to present your -- argue the case?

14 MR. BRODY: Well, Mr. Morton is most probably going
15 to be my only witness, Your Honor.

16 THE COURT: Mister?

17 MR. BRODY: Mr. Morton.

18 THE COURT: Yes. Your client is not going to
19 testify?

20 MR. BRODY: At this time, it's not my intention to
21 call Ms. Morton.

22 THE COURT: Will there be any other evidence?

23 MR. BRODY: There is one other witness, a woman by
24 the name of Carol Meier, who, in light of the fact that I
25 wasn't expecting the trial to move this quickly, I hope that

1 she will be here tomorrow. She is from Northern California.

2 THE COURT: Well, she has to be.

3 MR. BRODY: I've asked the U.S. marshals to arrange
4 for her transport earlier on in the day, and I haven't heard
5 back from them.

6 THE COURT: Is she in custody?

7 MR. BRODY: No. However, when -- because the marshal
8 served her, they arrange for her transport.

9 THE COURT: What is the gist of her testimony?

10 MR. BRODY: Her testimony will be that she told Sean
11 Morton or gave Sean Morton the impression that a bond that he
12 had prepared for her had satisfied her mortgage. That a bond
13 had worked. And that then became a critical part of the
14 Mortons' understanding of the efficacy of the use of these
15 bonds.

16 THE COURT: And when did that occur?

17 DEFENDANT SEAN DAVID MORTON: 2013, early 2013.

18 MR. BRODY: 2013.

19 THE COURT: But --

20 DEFENDANT SEAN DAVID MORTON: May I --

21 THE COURT: -- the scheme alleged begins, what, in
22 2007 or so?

23 MR. BRODY: Well, I believe the indictment is 2009,
24 but that includes overt acts, including the OID scheme and any
25 number of other things, but the bonds really began with Carol

1 Meier, with this particular woman.

2 As a matter of fact, the fact is that Sean Morton
3 started talking about Carol's bond, Ms. Meier's bond, on the
4 radio, and that is what prompted a lot of these people, people
5 whose bonds we've seen, to approach him to create those bonds.

6 DEFENDANT SEAN DAVID MORTON: She was a guest on my
7 radio show, talking about the success of it, and then people
8 started coming after she -- after it had worked for her, and
9 she got on the radio show and said it had worked.

10 THE COURT: When did you first attempt to serve her?

11 MR. BRODY: Some time ago, Your Honor.

12 THE COURT: But she was just served yesterday?

13 MR. BRODY: No, no. She was served quite some time
14 ago by the marshals. She was subpoenaed weeks ago, and I put
15 her on call, as it were, so that she would be available within
16 24 hours. I was advised by the U.S. Marshals Service, they
17 won't bring anything for the actual first day of trial if it's
18 probable they won't be called for that day of trial.

19 THE COURT: I didn't understand that the marshals
20 bring witnesses. They just -- don't witnesses get
21 compensation?

22 MR. BRODY: No. Apparently not, Your Honor.
23 Apparently, the marshals arrange their transport, and arrange
24 their lodging, and then they're reimbursed for their per diem.
25 It is in fact the marshals that arrange their transport and

1 lodging.

2 THE COURT: Well, she has to be here because it's
3 unfair to the jury.

4 MR. BRODY: I understand, Your Honor.

5 THE COURT: And all parties.

6 Now, while we're here, I was looking at the jury
7 instructions, and, in large part, there aren't major
8 disagreements, but the disagreement that I want to address
9 concerns the good faith instruction that you proffered, and
10 that the government feels is unnecessary in light of a Ninth
11 Circuit case that addressed that.

12 That seems to be the major bone of difference, isn't
13 it?

14 MR. BRODY: I think that's accurate, Your Honor.

15 THE COURT: How would you address that question?

16 MR. BRODY: Well, my understanding and my
17 recollection is that the -- the Ninth Circuit ruled that it
18 wasn't an error to fail to give a good faith instruction where
19 the fraudulent intent was properly described for the jury, they
20 were properly instructed. That, of course, doesn't mean that
21 one shouldn't give the good faith defense. It's merely there
22 was one particular case.

23 THE COURT: Well, I agree with that.

24 MR. BRODY: Yes, Your Honor.

25 THE COURT: And I think that is a correct summary of

1 the Ninth Circuit case.

2 And so, in this case, how would you argue good faith?
3 I mean, in other words, let's assume that Sean Morton -- well,
4 the jury has heard -- and you can tell me where I may have
5 missed something -- but the jury hasn't heard anything about
6 the -- any verbal exchange between the Mortons.

7 They now know from Lavender, and perhaps some other
8 things, that Ms. Morton was at least aware of these documents.
9 I didn't say aware of the reasoning behind them and their bona
10 fides, but she was aware of these documents, and she, herself,
11 used one of the bonds -- it was the 13- or \$14,000 tax
12 liability -- and, I mean, the jury, other than, you know,
13 husband and wife, how do you argue good faith? In other words,
14 is your argument that she was the dutiful wife and he was the
15 decision maker? I mean, is that something that the record
16 allows you to do? We have to get to this point.

17 MR. BRODY: Yes.

18 THE COURT: I'm not trying to unearth your argument,
19 but at some point this is going to reach a head.

20 MR. BRODY: Well, my argument is exactly what I
21 promised to the jury in opening argument.

22 THE COURT: But you also told the jury about some
23 videotape.

24 MR. BRODY: Yes. That is going to come in through
25 Mr. Morton. Mr. Morton and Mrs. Morton were present at these

1 lectures which were given by Brandon Adams, to which they
2 subscribed, they were present at lectures together that were
3 given by other people --

4 THE COURT: But that wouldn't be the only way to
5 bring in the videotape. I mean, that videotape was of this
6 Brandon Adams, correct, lecturing?

7 MR. BRODY: Yes, Your Honor.

8 THE COURT: And from your opening statement, I had
9 the impression that Brandon Adams was the creator or the person
10 who developed this concept, rightfully or wrongfully, and that
11 the Mortons accepted it, and thought it was a viable means of
12 making payments.

13 MR. BRODY: Yes, Your Honor.

14 THE COURT: And so in this videotape, did Brandon
15 Adams describe what we've heard here in the court?

16 MR. BRODY: Yes, in portions of it he describes the
17 process itself.

18 Your Honor, there are -- I mean, as far as Brandon
19 Adams goes, there are hundreds of hours of video. Obviously,
20 I'm not presenting anything like that. It is almost impossible
21 to distill a portion where Mr. Adams actually lays out in stark
22 detail his theory. I can't even present that. I can present
23 him talking about tidbits here and there, and the rest has to
24 come in --

25 THE COURT: I see. So you have edited some of what

1 he said.

2 MR. BRODY: Yes.

3 THE COURT: And Brandon Adams is not available as a
4 witness?

5 MR. BRODY: Well --

6 THE COURT: Adams I mean.

7 MR. BRODY: Well, I did, in fact, contact his
8 attorney. Brandon Adams is in prison right now on a related
9 scheme, quite frankly. And --

10 THE COURT: On a related scheme?

11 MR. BRODY: On a related scheme.

12 Well, actually he he's in prison for making fake
13 bonds in Arizona.

14 THE COURT: Oh.

15 MR. BRODY: And his attorney advised me that under no
16 circumstances would he be willing to testify in this case.
17 And, quite frankly, I'm not sure what he would say, because
18 what matters is, of course, what the Mortons believed. So
19 Brandon Adams isn't qualified to speak to that --

20 THE COURT: Right now -- and I'm just trying to make
21 this point because it's relevant to Mr. Morton's decision --
22 there is -- the only witness who actually had any contact with
23 the Mortons was this last witness.

24 MR. BRODY: Well, that's the only government witness
25 that did, that's true.

1 THE COURT: Yes, Ms. Lavender. And she didn't
2 even -- her knowledge of what Mr. Morton said or -- is based
3 upon what her husband told her.

4 MR. BRODY: Yes, that's true, Your Honor.

5 THE COURT: And she wasn't at the lectures.

6 So -- and then if you have a Meier -- is it Meier?

7 MR. BRODY: Carol Meier --

8 THE COURT: Meier. She's going to say that she used
9 the type of bond that we've seen in this case, and that she
10 told Mr. Morton that it succeeded in --

11 MR. BRODY: Satisfying --

12 THE COURT: -- satisfying some debt.

13 MR. BRODY: Yes, Your Honor.

14 THE COURT: How much of the debt?

15 MR. BRODY: It was a home mortgage to the tune of
16 several hundred thousand dollars, I think, but I can't say the
17 precise amount.

18 THE COURT: And can you tell me who Carol Meier is?

19 MR. BRODY: Well, off the top of my head, and, quite
20 frankly, I can't remember much of the detail of her personal
21 background. I mean, you know, she's a devout follower of Sean
22 Morton, would the most accurate description, as far as I'm
23 concerned.

24 THE COURT: I mean, how would you -- let's assume
25 that she testifies as you outline. Your argument would be then

1 limited to they had a good faith belief because one adherent
2 that told him that the payment went through.

3 MR. BRODY: That would be true if she was were the
4 only witness, Your Honor.

5 THE COURT: That's the only one you told me about,
6 unless Mr. Morton testifies.

7 MR. BRODY: Indeed.

8 THE COURT: And we don't know whether he will or not.
9 I feel it inappropriate to pressure him. I think he has the
10 right to give it ample consideration overnight. So I'm going
11 to give him that opportunity.

12 MR. BRODY: Certainly, Your Honor.

13 THE COURT: All right. Let's call a brief recess.
14 Hope that witness comes here.

15 MS. MAKAREWICZ: I think she is here, Your Honor.

16 THE COURT: What?

17 MS. MAKAREWICZ: She's here, Your Honor.

18 THE COURT: Brief three or four minutes.

19 MS. MAKAREWICZ: All right.

20 (Recess)

21 (Open Court - Jury Present)

22 MS. MAKAREWICZ: The government recalls Sofivan
23 Vargas to the stand.

24 THE CLERK: The witness is reminded that she is still
25 under oath.

THE WITNESS: Yes.

SOFIVAN VARGAS; GOVERNMENT'S WITNESS, PREVIOUSLY SWORN,

TESTIFIED FURTHER:

DIRECT EXAMINATION (Recalled)

BY MS. MAKAREWICZ:

Q. Ms. Vargas, prior -- earlier today, we asked you to verify certain records on Chase's system. Have you now done that?

A. Yes, I have.

Q. So records that had been previously provided to you, those have been checked by you personally on Chase's system, correct?

A. Yes.

Q. Okay.

Again, let's go back to Exhibit 23, page one.

THE COURT: When you say "personally checked," what did you do?

THE WITNESS: I logged on to my computer, signed on to my iVault system. And to view the signature card, went onto OneView, viewed and printed the statement along with the all the attachments that were provided.

THE COURT: Okay.

BY MS. MAKAREWICZ:

Q. Twenty-three.

Ms. Vargas, have you seen this document?

A. Yes.

Q. Was this document kept in the ordinary course of

1 Washington Mutual's records?

2 A. Yes.

3 Q. What is it?

4 A. It is a bank statement.

5 Q. Twenty-three?

6 A. Excuse me. It is a signature card.

7 Q. For what account? Can you just give us the last four
8 digits?

9 A. Ending in 3324.

10 Q. And you personally viewed these records on Chase's
11 database?

12 A. I did.

13 MS. MAKAREWICZ: I'd like move 23 into evidence, Your
14 Honor.

15 THE COURT: Received.

16 (Government's Exhibit 23 received in evidence.)

17 BY MS. MAKAREWICZ:

18 Q. Can you turn your attention to document 24.

19 What is this?

20 A. This is a bank statement.

21 Q. And for what period?

22 A. April 10, 2009, through May 11, 2009.

23 Q. And does it have other attachments such as deposits and
24 withdrawal slips?

25 A. Yes.

1 Q. And you personally viewed those on Chase's system today?

2 A. Yes.

3 MS. MAKAREWICZ: I'd like to move 24 into evidence.

4 THE COURT: Received.

5 (Government's Exhibit 24 received in evidence.)

6 MR. BRODY: Your Honor, it's the same objection as to
7 the contents of the document being hearsay, and a confrontation
8 objection.

9 THE COURT: Overruled.

10 BY MS. MAKAREWICZ:

11 Q. Twenty-five, Ms. Vargas.

12 Can you describe what this is?

13 A. This is a signature card.

14 Q. What's the account -- last four digits of the account
15 number?

16 A. 4249.

17 Q. Did you personally view this document on the Chase system
18 today?

19 A. Yes, I did.

20 MS. MAKAREWICZ: Move 25 into evidence.

21 THE COURT: Received.

22 (Government's Exhibit 25 received in evidence.)

23 BY MS. MAKAREWICZ:

24 Q. Twenty-six, please.

25 Can you describe what that document is.

1 A. A bank statement.

2 Q. For what account?

3 A. Account ending in 4249.

4 Q. For what period?

5 A. April 17, 2009, through May 8, 2009.

6 Q. And did you review this document as well as the supporting
7 documents on the system today?

8 A. I did.

9 MS. MAKAREWICZ: Move 26 into evidence, please.

10 THE COURT: Received.

11 (Government's Exhibit 26 received in evidence.)

12 BY MS. MAKAREWICZ:

13 Q. Twenty-seven.

14 Have you seen this document before?

15 A. Yes.

16 Q. What is it?

17 A. This is a bank statement.

18 Q. For what account?

19 A. Account ending in 4249.

20 Q. For what period?

21 A. May 9, 2009, through June 8, 2009.

22 Q. Did you personally view this on Chase's records today?

23 A. I did.

24 MS. MAKAREWICZ: Move 27 into evidence.

25 THE COURT: Received.

1 (Government's Exhibit 27 received in evidence.)

2 BY MS. MAKAREWICZ:

3 Q. Twenty-eight, please.

4 What is this document?

5 A. This is a signature card.

6 Q. For what account?

7 A. Account ending in 5891.

8 Q. Have you personally viewed this signature card today in
9 Chase's system?

10 A. I did.

11 MS. MAKAREWICZ: Move into evidence 28, please.

12 THE COURT: Received.

13 (Government's Exhibit 28 received in evidence.)

14 BY MS. MAKAREWICZ:

15 Q. Twenty-nine.

16 What is this document?

17 A. This is a bank statement.

18 Q. For what account?

19 A. Account ending in 5891.

20 Q. For what period?

21 A. April 17, 2009, through April 23rd, 2009.

22 Q. Did you personally view this statement today?

23 A. I did.

24 MS. MAKAREWICZ: Move 29 into evidence, please.

25 THE COURT: Received.

1 (Government's Exhibit 29 received in evidence.)

2 BY MS. MAKAREWICZ:

3 Q. Thirty.

4 What is this document?

5 A. This is a bank statement.

6 Q. For what account?

7 A. Account ending in 5891.

8 Q. For what period?

9 A. April 24th, 2009, through May 26, 2009.

10 Q. Did you personally view this statement on Chase's records
11 today?

12 A. I did.

13 MS. MAKAREWICZ: Move 30 into evidence, Your Honor.

14 THE COURT: Received.

15 (Government's Exhibit 30 received in evidence.)

16 MS. MAKAREWICZ: We have no further questions of this
17 witness.

18 MR. BRODY: No questions for Ms. Vargas.

19 THE COURT: Mr. Morton.

20 DEFENDANT SEAN DAVID MORTON: Other than being
21 mystified how this is relevant, no questions.

22 THE COURT: Thank you, ma'am.

23 We have completed the government's case. The
24 government rests?

25 MS. MAKAREWICZ: We have one request, Your Honor.

1 It's with respect to the ruling that you had reserved earlier
2 today regarding Microsoft Word documents that you were going to
3 review after the --

4 THE COURT: Well, subject to that ruling --

5 MS. MAKAREWICZ: Yes.

6 THE COURT: -- you rest.

7 MS. MAKAREWICZ: Yes.

8 THE COURT: And that ruling won't require any further
9 testimony.

10 MS. MAKAREWICZ: Unless the court rules against the
11 government.

12 THE COURT: I'm not following.

13 Would you approach the sidebar for a moment.

14 (Proceedings held at sidebar)

15 THE COURT: Can you refresh my memory on what you are
16 talking about?

17 MR. HUGHES: The documents at issue, Your Honor,
18 these are Word files of the bond and bond order. So these are
19 documents that were found on the computer, not only in a .pdf
20 format but in a manipulatable word processor format.

21 THE COURT: And the relevance is that they were used
22 to create the bonds.

23 MR. HUGHES: Correct. These files correspond exactly
24 with the .pdf's or paper files of the bonds, evidence of the
25 actual creations of these documents.

1 THE COURT: I see.

2 MR. BRODY: Submitted, Your Honor.

3 THE COURT: I'll admit them.

4 MS. MAKAREWICZ: Okay.

5 MR. BRODY: Couple things I would like to put on the
6 record outside the presence of the jury. Could we have a
7 minute after you've dismissed them?

8 THE COURT: Absolutely. One thing while you're here,
9 why is it that you can't tell the witness to get on a plane,
10 come here, and can't you order her to be reimbursed? I'd order
11 that.

12 MR. BRODY: I'm not entirely sure. This was exactly
13 what I was told by the marshals office, that they would bring
14 her, and I was confident.

15 THE COURT: I know, but we're in sort of a crisis
16 here, and -- Paul?

17 THE CLERK: Yes.

18 THE COURT: Why can't the witness get on a plane?

19 THE CLERK: I just got information about that right
20 now. She is getting on a plane tonight.

21 MR. BRODY: Thank you, Your Honor.

22 THE COURT: Okay.

23 THE CLERK: You need to contact her to let her know
24 what time to be here to testify.

25 THE COURT: Do that at the break.

1 MR. BRODY: Yes, Your Honor.

2 (Proceedings resumed in open court)

3 THE COURT: So the government's case is complete now.
4 The government rests.

5 And, as I said, I don't know what the defense will
6 present, if anything. I'll know that tomorrow. And we've
7 finished -- yes?

8 DEFENDANT SEAN DAVID MORTON: At this point, sir, if
9 I may?

10 THE COURT: Yes.

11 DEFENDANT SEAN DAVID MORTON: If the prosecution has
12 rested, I would like to enter an oral and physical motion to
13 dismiss with prejudice. I desire and demand for this honorable
14 court to dismiss with prejudice. The representatives for the
15 plaintiff, the United States of America, have not made a prima
16 facie case showing of any type of intent or culpability beyond
17 a reasonable doubt. Plaintiff has not responded to -- as I
18 told you earlier; it's in the docket -- Affidavit of
19 Nonculpability with a certified nonresponse. Plaintiff has not
20 responded to the Affidavit of Nonjurisdiction with a certified
21 nonresponse.

22 Plaintiff has failed to present any conclusive or
23 direct evidence. Conclusive evidence is absolute; direct
24 evidence is strong evidence, and all they are presenting is
25 prima facie, which is just barely the minimal standard.

1 When I, a man, say they haven't made a prima facie
2 showing, they haven't even met the minimal standard that there
3 was any kind of intent or culpability; and, furthermore,
4 they've not provided any witnesses with personal or direct
5 knowledge of anything relevant to the case. Not a single
6 witness can testify or verify under oath --

7 THE COURT: Mr. Morton, I understand the basis of
8 your motion, and we're -- the jury is here. So if you want to
9 expand on that outside the jury, you can, but I'll make that
10 decision once the jury is dismissed.

11 DEFENDANT SEAN DAVID MORTON: Yes, sir. I'm
12 submitting the paperwork.

13 THE COURT: Now, I'm going to let you go a little
14 early. Just to get your scheduling in mind: When we come back
15 tomorrow, we'll have the defense case. I don't expect it to be
16 too lengthy, and my belief is that you will have the case for
17 decision sometime tomorrow. In other words, what remains is
18 for me to instruct you on the law which applies to this case.
19 That's my job, and you have to follow the law, but how you see
20 the evidence in light of the law is up to you, so.

21 And then after I instruct you, I'll give the lawyers
22 a chance to sum up, make their final argument, and then you'll
23 have the case to decide. So it will be sometime tomorrow.

24 All right. Have a pleasant evening. I'll give you a
25 little leeway tomorrow, but don't let it go to your heads.

1 9:15. Okay?

2 (Proceedings held outside the presence of the jury:)

3 THE COURT: Now, if you want to file something,
4 Mr. Morton, you can. We'll file it.

5 DEFENDANT SEAN DAVID MORTON: Yes, sir.

6 THE COURT: It's filed.

7 And your motion is noted and denied.

8 Now, you wanted to say something Mr. Brody.

9 MR. BRODY: Yes. Thank you, Your Honor. A couple of
10 things. First, I do want to put on the record that I have not
11 conclusively formed the intention of calling Carol Meier. Now,
12 I'm pleased to hear that she will be available tomorrow, but I
13 want to be clear with the court --

14 THE COURT: Well, I mean, that's your option. You're
15 not obligated, and I appreciate your candor.

16 MR. BRODY: Thank you, Your Honor.

17 DEFENDANT SEAN DAVID MORTON: I will call her then,
18 if I may?

19 THE COURT: All right. Then you'll call her.

20 DEFENDANT SEAN DAVID MORTON: Okay. Absolutely.
21 I'll call Carol.

22 MR. BRODY: Also, to the extent that Mr. Morton's
23 motion was a Rule 29 motion, I'm making the same motion. I
24 don't think there's been sufficient evidence of fraudulent
25 intent, and, for the requisite, criminal intent with respect to

1 any of the charges.

2 I'll submit on that but --

3 THE COURT: I'll take that motion under submission.

4 MR. BRODY: Thank you, Your Honor.

5 THE COURT: And I'll make a decision.

6 MR. BRODY: Thank you, Your Honor.

7 I did want to preview for the court, too, you know,
8 just so this doesn't come as a surprise, and we don't have to
9 argue about this later, if it were the case that the defense
10 called no witnesses, I certainly think I could make a -- an
11 argument, a good faith defense.

12 And the reason for that is that -- I'm just concerned
13 that there might be some issue with respect to the various
14 positions on this, but the government has the obligation to
15 prove the criminal intent beyond a reasonable doubt. Good
16 faith is not an affirmative defense, obviously, and I think
17 that, you know, the circumstantial -- the circumstances being
18 what they are, the evidence what it is, I think I could very
19 well argue, without presenting any witnesses, that the
20 government has failed to demonstrate criminal intent, and,
21 indeed, that good faith is an appropriate defense here. I
22 think there are circumstances that suggest what the Mortons did
23 was done in good faith.

24 THE COURT: Give me some rough idea without giving me
25 all your argument.

1 MR. BRODY: Well, yes, certainly I didn't want to
2 preview everything for the government, but I think, you know,
3 one could certainly say -- I mean, look, if the Mortons were a
4 snake oil salesman, you know, one doesn't use -- a snake oil
5 salesman doesn't use the oil on himself. I mean, I think it's
6 clear, the sheer volume of documents that they filed with the
7 IRS, the complex nature of them, I think that it's --

8 THE COURT: Using their own name.

9 MR. BRODY: Using their own names. I mean, they were
10 open and notorious about, you know, here's -- they're
11 submitting bonds to the IRS.

12 THE COURT: They do some legal jujitsu with
13 Ms. Lavender.

14 MR. BRODY: Well, quite possibly.

15 THE COURT: I think that sounds legitimate.

16 MR. BRODY: And so for that reason, I think that, you
17 know, the good faith is obviously the crux of this case. I
18 think while there may be Ninth Circuit precedent that says Your
19 Honor doesn't have to instruct on it, I think that that
20 instruction has to be -- if that's the key to this case, and
21 the jury really has to get a proper understanding.

22 THE COURT: I'm inclined to give the good faith
23 instruction, notwithstanding the Ninth Circuit case. And good
24 faith is sort of a shade different than reliance. In other
25 words, good faith and reliance are usually tied together but

1 not always.

2 So it isn't as though you're arguing reliance on
3 something, because there is nothing to rely on.

4 MR. BRODY: There is nothing.

5 THE COURT: But it's just, as you said, some of the
6 circumstantial evidence that you can weave together.

7 MR. BRODY: Yes, Your Honor.

8 THE COURT: I tend to think you're right.

9 MR. BRODY: Thank you, Your Honor.

10 THE COURT: All right. See you tomorrow.

11 DEFENDANT SEAN DAVID MORTON: Thank you, Your Honor.

12 (Proceedings concluded at 5:00 p.m.)

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C E R T I F I C A T E

I hereby certify that pursuant to Section 753,
Title 18, United States Code, the foregoing is a true and
correct transcript of the stenographically reported proceedings
held in the above-entitled matter and that the transcript page
format is in conformance with the regulations of the Judicial
Conference of the United States.

Date: May 24, 2017

/s/ _____

Deborah K. Gackle
CSR No. 7106

{PLAINTIFF} V.
{DEFENDANT}{WITNESSNAME}
{DATE}

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| <p>BY DEFENDANT SEAN DAVID MORTON: [41] 268/2 314/1 314/19 315/13 317/5 324/3 325/2 325/13 325/16 343/19 345/14 400/7 404/19 405/6 407/18 416/25 420/21 421/16 421/21 422/3 422/13 422/20 422/24 423/14 424/6 424/13 425/3 426/8 459/8 460/18 461/7 461/16 467/1 467/13 467/21 474/10 474/14 474/18 474/21 475/10 475/14</p> <p>BY MR. BRODY: [11] 270/11 320/5 346/7 347/1 354/9 426/20 429/23 430/15 431/17 458/11 485/9</p> <p>BY MR. HUGHES: [21] 266/20 273/5 274/1 277/19 282/2 283/19 284/7 286/17 326/10 330/22 331/5 331/15 332/1 332/11 332/21 333/6 333/16 334/25 337/12 338/25 340/18</p> <p>BY MS. MAKAREWICZ: [87] 290/2 291/5 294/2 294/8 294/13 297/11 298/17 298/22 300/25 302/6 303/14 303/24 304/22 306/25 307/8 307/17 307/24 308/7 308/14 308/22 309/5 309/12 309/17 309/23 310/18 311/14 312/8 312/24 357/2 358/15 360/9 363/12 364/23 367/14 368/6 373/5 377/25 379/18 380/23 385/1 386/3 386/17 386/23 387/23 389/2 389/23 395/17 396/20 435/18 437/3 439/19 442/9 442/25 443/23 444/17 445/12 447/14 449/17 453/2 453/25 455/9 455/20 456/2 462/20 466/5 468/15 470/15 471/5 472/19 473/9 473/19 476/13 477/18 479/16 480/18 481/9 484/1 485/4 506/4 506/20 507/16</p> | <p>508/9 508/22 509/11 510/1 510/13 511/1</p> <p>DEFENDANT SEAN DAVID MORTON: [150] 268/13 268/19 268/23 269/4 269/10 269/15 269/21 270/2 270/5 270/8 277/3 281/9 286/10 289/1 291/4 292/21 294/5 294/10 295/4 295/23 300/22 305/24 306/11 306/14 309/14 312/6 313/21 320/2 323/24 324/18 324/23 325/21 334/9 334/15 334/24 337/6 337/8 337/18 338/13 338/20 339/8 341/24 342/16 342/19 354/4 355/20 356/8 356/10 356/14 360/3 364/15 367/10 372/23 373/4 377/8 377/12 377/15 379/12 380/20 382/4 383/4 384/16 386/14 387/1 387/20 388/24 390/17 391/9 391/12 391/23 392/10 392/23 393/11 393/24 394/12 394/25 395/14 395/20 396/11 396/14 396/18 397/11 397/24 398/15 399/7 399/21 404/14 404/17 407/3 407/5 407/8 407/11 407/14 407/16 423/5 423/8 423/11 423/22 423/25 425/17 426/12 429/22 429/25 431/15 434/12 434/23 435/1 441/24 442/13 444/14 445/6 445/10 446/20 450/14 452/14 452/18 452/24 453/19 455/6 457/25 460/15 461/21 462/2 462/4 466/1 467/11 467/25 473/2 473/5 474/7 475/18 475/22 481/7 492/11 492/24 494/8 495/14 495/17 496/24 498/16 498/19 499/5 511/19 514/7 514/10 515/10 516/4 516/16 516/19 519/10</p> <p>MR. BRODY: [174] 272/13 277/1 281/7 283/16 283/22 284/1 284/9 285/7 285/23 286/4 287/7 288/11 288/19 289/5 290/24 292/12 292/17 293/24</p> | <p>294/11 294/16 295/17 296/6 298/15 298/20 302/4 303/7 303/11 303/13 303/20 304/12 305/8 305/15 305/18 305/21 312/2 312/7 312/19 312/23 313/13 313/18 320/1 323/22 330/19 334/8 337/7 337/10 337/17 339/7 339/10 341/4 341/14 341/17 342/24 345/11 346/2 346/5 346/24 354/6 355/16 356/3 356/6 359/13 359/17 360/2 363/9 366/21 366/25 378/2 382/16 383/1 386/20 389/18 390/5 426/18 430/7 430/9 430/12 434/15 436/19 442/2 442/7 443/14 443/17 443/20 443/22 445/17 446/9 446/12 446/15 452/13 452/17 452/22 453/15 454/13 455/23 456/8 456/15 456/20 456/24 457/18 457/24 458/9 466/21 472/5 472/9 472/13 473/14 474/1 474/5 480/15 482/24 484/23 485/3 492/8 493/22 493/25 494/4 496/16 497/13 497/16 497/19 497/22 498/2 498/6 498/9 498/17 498/22 499/10 499/12 499/21 500/3 500/13 500/15 500/23 501/16 501/19 501/23 502/6 502/12 502/15 503/1 503/4 503/6 503/10 503/14 503/23 504/3 504/6 504/10 504/12 504/14 504/18 505/2 505/6 505/11 508/5 511/17 513/1 513/4 513/11 513/20 513/25 516/8 516/15 516/21 517/3 517/5 517/25 518/8 518/13 518/15 519/3 519/6 519/8</p> <p>MR. HUGHES: [61] 266/9 266/12 267/10 267/23 268/9 268/17 269/7 269/13 269/19 269/23 272/16 275/10 276/24 277/6 279/13 281/5 283/8 284/13 285/4 285/9 285/12 285/14 285/17 285/22 287/4 287/12 287/17</p> | <p>287/19 287/24 288/6 288/10 288/12 288/15 289/2 289/8 325/23 328/11 328/14 331/2 331/12 331/23 332/8 332/18 333/3 333/13 334/11 334/22 336/10 336/13 338/22 341/20 342/1 342/4 342/8 342/11 342/14 343/8 343/11 343/13 512/16 512/22</p> <p>MS. MAKAREWICZ: [223] 281/12 284/20 284/25 285/25 286/14 288/9 289/13 292/15 293/3 293/6 294/18 294/23 295/13 295/16 295/19 296/2 296/10 296/15 296/22 299/20 299/22 300/16 300/20 301/18 301/22 302/22 302/24 303/1 303/17 304/10 304/16 304/18 305/5 305/7 305/11 306/15 306/18 306/22 307/5 307/14 307/21 308/4 308/11 308/17 308/19 309/1 309/9 309/21 310/12 310/16 311/9 313/12 314/15 315/10 317/3 324/16 324/22 324/25 325/8 325/15 356/15 361/2 367/2 367/22 371/2 372/3 374/6 374/14 375/3 376/22 377/6 377/14 377/19 377/21 378/8 378/11 378/13 379/5 379/22 380/1 380/11 381/10 381/16 381/21 382/3 383/17 384/8 384/12 384/20 384/22 384/24 385/25 387/4 387/13 388/1 388/14 389/5 389/12 390/7 390/25 391/8 391/14 392/1 392/13 393/1 393/14 393/23 394/2 394/16 395/4 395/23 397/1 397/10 397/14 398/3 398/17 398/19 398/21 399/11 399/25 400/2 404/13 416/22 420/18 421/13 421/19 421/24 422/11 422/17 422/22 423/3 423/10 423/18 423/20 424/4 424/11 425/1 425/15 426/6 426/10 430/3 430/13 434/21 435/5 436/25 439/13</p> | <p>439/17 441/1 441/5 441/7 446/16 446/19 446/24 449/11 449/15 451/14 454/17 454/19 454/21 455/1 455/14 455/18 456/5 456/18 457/2 457/12 457/14 457/16 458/6 460/13 460/22 461/14 461/19 462/8 464/12 464/16 466/20 467/10 467/18 467/23 468/2 470/11 471/2 473/1 473/4 473/17 473/25 474/12 474/17 474/24 475/2 475/6 475/12 475/25 479/12 481/13 483/6 483/18 483/22 483/24 485/1 485/7 492/15 493/4 494/13 505/14 505/16 505/18 505/21 507/12 508/2 508/19 509/8 509/23 510/10 510/23 511/12 511/15 511/24 512/4 512/6 512/9 513/3</p> <p>THE CLERK: [29] 266/15 272/18 272/23 277/8 277/13 281/16 281/20 289/15 289/19 289/21 296/24 297/3 325/25 326/3 356/17 356/21 435/7 435/11 447/1 447/6 462/10 462/14 468/7 476/2 476/6 505/23 513/16 513/18 513/22</p> <p>THE COURT REPORTER: [2] 269/2 405/4</p> <p>THE COURT: [490]</p> <p>THE WITNESS: [75] 266/17 272/22 273/1 273/22 273/25 277/12 277/16 281/19 281/23 284/6 287/10 289/10 289/18 289/20 289/23 290/25 292/25 297/2 297/7 305/2 325/10 326/6 337/25 338/3 338/5 338/10 338/23 339/15 339/17 339/20 339/22 339/25 340/7 340/12 340/15 355/17 356/20 356/24 358/10 358/12 359/25 364/17 367/23 422/1 423/4 426/15 434/19 435/10 435/14 442/20 444/25 445/3 445/5 445/22 445/25 446/7 447/5 447/9 450/21 450/23</p> |
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{PLAINTIFF} V.
{DEFENDANT}

{WITNESSNAME}
{DATE}

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